

# **GEORGIA INSTITUTE of TECHNOLOGY**

## **APPEAL of**

### **INFRACTIONS REPORT No. 345**

#### **EXHIBITS TO APPEAL**

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**Exhibit List for the Appeal of the Georgia Institute of Technology**

1. Georgia Institute of Technology Public Infractions Report No. 345, July 14, 2011
2. University of Georgia Infractions Appeals Committee Report, June 3, 2005
3. Student-Athlete Reinstatement Case ID 36609, September 3, 2010
4. Student-Athlete Reinstatement Case 36701, September 17, 2010
5. Texas A&M – Corpus Christi Public Infractions Report, March 25, 2009
6. Eastern Washington University Public Infractions Report, February 11, 2009
7. Alabama State University Infractions Appeals Committee Report, June 30, 2009
8. Southeast Missouri State University Public Infractions Report, June 18, 2008
9. Florida State University Public Infractions Report, March 6, 2009
10. Savannah State University Public Infractions Report, May 19, 2006
11. University of Tennessee-Knoxville Public Infractions Report, August 24, 2011
12. University of Tennessee-Chattanooga Public Infractions Report, September 23, 2010

# Exhibit 1



**GEORGIA INSTITUTE OF TECHNOLOGY**  
**PUBLIC INFRACTIONS REPORT**  
**July 14, 2011**

**A. INTRODUCTION.**

On Friday, April 15, 2011, officials from the Georgia Institute of Technology (Georgia Tech) and the former head men's basketball coach, accompanied by his legal counsel, appeared before the NCAA Division I Committee on Infractions to address allegations of NCAA violations in the football and men's basketball programs. This case was very troubling to the committee in a number of respects. Because the committee finds violations of both the cooperative principle (Bylaws 19.01.3 and 32.1.4) and the conditions and obligations of membership (Bylaws 3.2.4.3 and 14.11.1), this case provides a cautionary tale of conduct that member institutions should avoid while under investigation for violations of NCAA rules. Rather than fulfill its requirements under NCAA bylaws, Georgia Tech failed to cooperate in an apparent effort to avoid potential allegations of rules violations, thereby eliminating the need to withhold two highly talented football student-athletes from end of the season competition, including the ACC conference championship game and the institution's bowl appearance. In doing so, the institution compounded the seriousness of this case, by adding onto what was originally an isolated instance of impermissible benefits and preferential treatment, extremely serious allegations that it failed to protect the integrity of the enforcement staff's investigation, violated the cooperative principle and failed to meet the conditions and obligations of the membership. There were additional allegations involving the men's basketball program, most notably allegations relating to tryout legislation stemming from a nonscholastic basketball tournament conducted on the institution's campus.

A member of the Atlantic Coast Conference (ACC), the institution has an enrollment of approximately 19,144 students. The institution sponsors eight men's and seven women's intercollegiate sports. This was the institution's third major infractions case. The institution also had previous infractions cases in 2005 (Football, Men's and Women's Cross Country, Men's and Women's Track Indoor and Outdoor, Men's and Women's Swimming) and in 1989 (Football).

**B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

**1. PREFERENTIAL TREATMENT. [NCAA Bylaw 12.1.2.1.6]**

In October 2009, a friend of an employee of a sports agency based in Atlanta, Georgia, provided a then football student-athlete ("student-athlete 1") several items of clothing valued at approximately \$312.

### **Committee Rationale**

The institution and the enforcement staff were not in agreement on the facts of this finding. While the institution agreed that student-athlete 1 received clothing on one occasion from someone, it contended that the source of the clothing and the reason for the gifts were not clear and thus there was insufficient evidence to support a finding of a violation. The committee finds that the violation occurred.

As background, in November 2009, the NCAA agent, gambling and amateurism activities (AGA) staff developed information that a former Georgia Tech football student-athlete ("agency employee") was working for an Atlanta-based professional sports agency and that he had provided impermissible benefits to a current Georgia Tech football student-athlete ("student-athlete 2"). During a November 11, 2009, telephone conversation the AGA staff member assigned to the case ("AGA staff member") informed the institution's assistant athletics director for compliance ("compliance director"), that student-athlete 2 may have received impermissible benefits from an individual associated with a sports agency. The compliance director was clearly instructed that the information could be shared with only the institution's president and the director of athletics. Arrangements were made to interview student-athlete 2.

On November 18, during an interview with both the NCAA and institution, student-athlete 2 denied that he was given any impermissible benefits. Subsequently, it developed that the institution, acting contrary to the explicit instructions of the AGA staff, had questioned student-athlete 2 on two occasions prior to his interview and had disclosed to him specific information, which was the subject of the interview. This information had been told to the institution's compliance officer by the AGA staff during the November 11 telephone call. The meetings involving student-athlete 2 and institution officials occurred on November 16, 2009, after the NCAA's warning and before the NCAA's interview with him. This series of events forms the foundation of Finding B-2.

On November 19, the AGA staff received additional information indicating that impermissible benefits had also been provided to student-athlete 1. As a result, student-athlete 1 was interviewed on November 19, the day after the interview of student-athlete 2. During his interview, student-athlete 1 recounted being invited to his cousin's ("the cousin") Atlanta home, where he received athletics clothing. Student-athlete 1 reported that he, along with student-athlete 2, went to the cousin's home where they were joined by the agency employee and the cousin's roommate ("the roommate"). (The roommate was previously acquainted with the agency employee, and according to the roommate

they went to church together.) Student-athlete 1 reported that both he and student-athlete 2 received clothing from his cousin's roommate. This was discussed during student-athlete 1's November 19 interview as follows:

**AGA STAFF:** Did (the agency employee) take you and, and (student-athlete 2) out at any time to get some clothes? Do you remember? Do you know what I'm talking about?

**STUDENT-ATHLETE 1:** Clothes? Yeah.

**AGA STAFF:** Talk to me about that.

**STUDENT-ATHLETE 1:** It was, is that, what day it is, it was one day during the, a week ago maybe, no it's been longer than that. Maybe, like, a month, maybe, um, I got a random text message (from his cousin) . . . And when we went so I was, me and (student-athlete 2) went over (to the cousin's home) and (the agency employee) and them was over there. And, um, like you was saying they had some clothes, some Adidas wear or whatever.

**AGA STAFF:** Athletics wear.

**STUDENT-ATHLETE 1:** Yeah.

**AGA STAFF:** And, did ya'll go out and purchase these clothes or did they have them all there for you?

**STUDENT-ATHLETE 1:** They was in the house already, so.

**AGA STAFF:** New clothes?

**STUDENT-ATHLETE 1:** I don't know. I don't know how new the jackets were but they was, like, they looked new.

**AGA STAFF:** So did (the agency employee) give those to you?

**STUDENT-ATHLETE 1:** No, (the agency employee) didn't give them to us.

**AGA STAFF:** Who gave them to you?

**STUDENT-ATHLETE 1:** My cousin 'cause he got a roommate named (roommate's nick name) and he, I think, I don't know if he worked at the Adidas place or not but I know he the one that gave them to us. He the one that, um, said, he was, like, my friend got ya'll an early Christmas present, and he was talking about (the roommate).

**AGA STAFF:** Okay. Was it kinda, like, you said they, this was, like, an early Christmas present, I mean, was it wrapped up or anything or did they have it all laying out?

**STUDENT-ATHLETE 1:** No. It was just in a room.

**AGA STAFF:** Why, um, why did (the roommate) want to give this to ya'll? Why did, I mean, why is he giving ya'll an early Christmas present?

**STUDENT-ATHLETE 1:** I don't. I, I really don't know.

**AGA STAFF:** What's, help me understand.

**STUDENT-ATHLETE 1:** Maybe, I don't. I really don't know.

**AGA STAFF:** Who did?

**STUDENT-ATHLETE 1:** I don't even know if (the roommate), like, actually knows the (owner of the sports agency). I don't even know if he know him, but, um. I know since (the agency employee) and (the roommate) was homeboys since when they were, when they were, I mean, whenever. I would guess he get us some stuff to maybe going away or looking towards (the agency employee) and them if we wanting to sign to an agent I guess.

**AGA STAFF:** Help, help me understand that a little bit more.

**STUDENT-ATHLETE 1:** Okay.

**AGA STAFF:** Why, why would (the roommate) want you to go (the agency employee's) way for an agent? You think (the roommate) is working for (the agency employee) or (the roommate) is working for, for the agent?

**STUDENT-ATHLETE 1:** I mean, I really don't know, I don't know what's going on. I just know we went to his house and, and we got it from (the roommate's) house.

Thus, student-athlete 1 indicated that there might have been agent involvement in the provision of the clothing he and student-athlete 2 received. Enforcement staff alleged agent involvement in this transaction (Bylaw 12.3.1.2 **Benefits from a Prospective Agents**) as well as provision of clothing to student-athlete 2. This was a close question for the committee, as the enforcement staff had received confirmation from the National Football League Players Association (NFLPA) that the former Georgia Tech football student-athlete, who was also present when the clothing was provided (earlier identified

in this report as "the agency employee") was, in fact, employed by an Atlanta-based sports agency. In the end, the committee did not make a finding of benefits from an agent, as student-athlete 1 equivocated when pressed on the question of agency involvement. Further, student-athlete 1 stated that the clothing came from the cousin's roommate, rather than directly from the agency employee.

The committee also did not make a finding that student-athlete 2 received clothing, as he consistently denied this, although his denials may have been the result of the institution failing to protect the integrity of the NCAA's investigation, as set forth earlier in this report and in Finding B-2. The committee believes that the institution's interviews with student-athlete 2 alerted him that the enforcement staff would be questioning him about benefits from agents, which resulted in a tainted interview. This, in turn, hindered the committee in its review of this case. (See Finding B-2.) In the final analysis, the committee concluded that there was sufficient evidence to find that student-athlete 1 had been provided clothing and that this provision of clothing violated legislation pertaining to Bylaw 12.1.2.1.6 **Preferential Treatment**.

At the request of the institution, student-athlete 1 returned the clothing to the athletics department. Some of the items still had the price tags attached. As a result, the institution acknowledged that student-athlete 1 had "received clothing on one occasion from someone, but the source (and) reasons for the provisions . . . is not clear." Part of the basis for the institution's position was that the institution's former general counsel interviewed student-athlete 1 a second time, on November 24, five days after he was interviewed by the enforcement staff. According to the institution, the reason for this second interview was that student-athlete 1's first interview "lacked clarity" as to the source of the clothing. In that second interview, student-athlete 1 changed what he had reported to the enforcement staff and claimed that the clothing items in question had been given to him by his cousin, rather than his cousin's roommate. The enforcement staff expressed several concerns about this second interview and suggested that the committee listen to a recording of the interview, which it did. After listening to the recording, the committee was struck by the perfunctory and limited nature of the interview. Rather than being probative, the interview appeared to be conducted to elicit the "right answer" from student-athlete 1 and to justify not withholding him from competition. Specifically, the committee noted that:

- Unlike his interview with the enforcement staff, student-athlete 1 was not informed prior to his interview of his obligation to provide truthful information as required under NCAA Bylaw 10.1.
- When, during his November 24 interview, student-athlete 1 changed the statement he made in his November 19 interview regarding the source of the clothing, there was no challenge or follow up by the general counsel as to why his



story had changed. Further, in light of this change in his testimony, the general counsel did not inform student-athlete 1 about the consequences of possibly providing false information to the NCAA during his previous interview on November 19.

- At the conclusion of the interview, the committee noted that the general counsel seemed to minimize the seriousness of the roommate's involvement in this violation by posing a leading question to student-athlete 1 with no follow-up;

**GENERAL COUNSEL:** Would you consider (the roommate) to be a friend?

**STUDENT-ATHLETE 1:** Yeah.

**GENERAL COUNSEL:** OK.

**STUDENT-ATHLETE 1:** Yeah.

**GENERAL COUNSEL:** Good enough. That was easy.

When interviewed by the enforcement staff, student-athlete 1 did not even know the roommate's last name, which would appear to contradict his answer to the general counsel's question that student-athlete 1 and his cousin's roommate were "friends."

The committee further noted that, also on November 24, the institution's compliance officer sent an email to the ACC office in which he informed the conference that student-athlete 1 had received clothing items from the cousin's roommate, not from the cousin. Also of note was that, on that same day, at 8:18 a.m., the NCAA's director for AGA activities sent an email to the compliance director informing him, among other things that the eligibility of student-athletes 1 and 2 could be in jeopardy. It was subsequent to the receipt of this email, but on the same day, that student-athlete 1 was re-interviewed by the institution's former general counsel. Based on the different information reported by student-athlete 1 in this second interview, the institution did not withhold him from competition. (See: Finding B-3.)

The committee was concerned with the former general counsel's approach to the NCAA's investigation. Rather than working with the enforcement staff in a cooperative manner, it appeared the general counsel adopted an obstructionist approach to the investigation. At one point, the former general counsel, in correspondence to the director of athletics, claimed that the AGA staff member conducting the investigation had been "demonstratively untruthful" to the institution on two occasions, an apparently unfounded accusation. In the committee's view, the former general counsel's behavior in this case was a disservice to the institution. The committee acknowledges that institutional

lawyers must navigate a difficult line between traditional client representation and the NCAA's imperatives of cooperation. Nevertheless, legal representation of an NCAA institution requires a full appreciation and understanding of the institution's obligations of membership and diligent assistance to the institution to comply with those requirements. In an October 11, 2010, letter to the director of enforcement supervising the case, the institution's president cited several mistakes that the institution had made in the conduct of the investigation, some of which was attributed to "bad advice" received from the former general counsel.

The former general counsel was not the only person at the institution who conveyed a combative attitude toward the investigation. The AGA investigator assigned to investigate the matter needed supervisory support at some interviews because the attitude of the institution's representatives was so confrontational.

In the end, the committee concluded that the information provided by student-athlete 1 in his first interview regarding the source of the clothing he received was the truthful version. The interview was conducted without preparation or prompting from the institution. The statement was made against his own interest and, therefore, it appeared highly unlikely that he would have made an incriminating statement unless it was the truth.

## **2. FAILURE TO COOPERATE. [NCAA Bylaws 19.01.3 and 32.1.4]**

On November 16, 2009, the institution failed to protect the integrity of the investigation and violated the cooperative principle when, contrary to specific instructions from the NCAA enforcement staff, institution staff members spoke to student-athlete 2 and told him the issues and related matters that would be the subject of his upcoming November 18, 2009, interview with the NCAA.

### **Committee Rationale**

The institution and the enforcement staff were in substantial agreement on the facts of this finding, but the institution did not agree that the facts constituted a violation of the cooperative principle. The committee finds that the violation occurred.

The requirement to cooperate is set forth in the NCAA bylaws at 19.01.3 - **Responsibility to Cooperate**, and 32.1.4 – **Cooperative Principle**. Institutions must aid the NCAA in the full development of facts and protect the integrity of the investigation by, among other things, complying with enforcement staff's limitations on information sharing. While full cooperation will inevitably vary from institution to institution, in assessing whether an institution has fulfilled its cooperation obligation, the committee

will consider whether the institution self reported the violations or whether they were discovered by others, whether it aided in the investigation or obstructed it, and whether it fulfilled all requests from the enforcement staff in a timely and civil manner or ignored or hindered staff in fulfilling those requests. Considering all those factors, the institution fell well short of its NCAA obligations.

On November 11, 2009, the AGA staff member assigned to this case telephoned the institution's compliance officer to report information the NCAA had received pertaining to student-athlete 2 and possible impermissible agent activity. The AGA staff member informed the compliance officer that student-athlete 2 would need to be interviewed and was expressly told not to discuss the information reported about student-athlete 2 with anyone except the institution's president and director of athletics. Despite these instructions, institution staff members later informed student-athlete 2 of the issues and related matters that would be discussed during his upcoming interview with the NCAA.<sup>1</sup>

The institution acknowledged that, on November 16, student-athlete 2 was questioned about matters that would be discussed during his upcoming interview with the NCAA. Subsequent to receiving information from the NCAA's AGA staff, the compliance director informed the director of athletics. This was permissible. However, the director of athletics then made the unilateral decision that the head football coach should be apprised of this situation. He stated that sharing information with the head football coach was "a managerial decision" and that he did so in the interest of maintaining "communication and trust" between himself and the head football coach. The head football coach, in turn, discussed this matter, with student-athlete 2. Later, in a group setting, which included student-athlete 2, the director of athletics, the head football coach, a senior associate director of athletics and the compliance director, student-athlete 2 was questioned by the compliance director about the information he (the compliance director) had received from the enforcement staff about student-athlete 2's possible involvement in agent activity. This meeting occurred despite explicit instructions from the enforcement staff not to discuss the information with anyone except the president and the director of athletics. As a result, the institution failed to protect the integrity of the investigation and to fully cooperate.

At the hearing, the institution's outside consultant acknowledged that institution officials did not show good judgment in this situation:

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<sup>1</sup> In his response to the notice of allegations, the compliance officer stated that he followed the instructions of the enforcement staff and only informed the director of athletics of the information he received from the NCAA regarding student-athlete 2's possible involvement in violations. He stated that he emphasized to the director of athletics that only he and the institution's president should be made aware of this information and that in particular, the head football coach should not be informed. Unfortunately, the director of athletics shared this information with the head football coach, who eventually questioned student-athlete 2 about it.

So, we are saying there was a poor decision by the (compliance director) and the (director of athletics), but the (head football coach), for whatever it is worth, was never told it is an institutional directive from the enforcement staff. So, we are saying there was a poor decision by (the compliance director) and (the director of athletics) . . .

The responsibility for institutions to cooperate is codified in Bylaws 19.01.3 and 32.1.4. Bylaw 19.01.3 **Responsibility to Cooperate** states:

All representatives of member institutions shall cooperate fully with the NCAA enforcement staff, Committee on Infractions, Infractions Appeals Committee and Board of Directors to further the objectives of the Association and its enforcement program. The enforcement policies and procedures are an essential part of the intercollegiate athletics program of each member institution and require full and complete disclosure by all institutional representatives of any relevant information requested by the NCAA enforcement staff, Committee on Infractions or Infractions Appeals Committee during the course of an inquiry.

Bylaw 32.1.4 **Cooperative Principle** states:

The cooperative principle imposes an affirmative obligation on each institution to assist the enforcement staff in developing full information to determine whether a possible violation of NCAA legislation has occurred and the details thereof. An important element of the cooperative principle requires that all individuals who are subject to NCAA rules protect the integrity of an investigation. A failure to do so may be a violation of the principles of ethical conduct. The enforcement staff will usually share information with the institution during an investigation; however, it is understood that the staff, to protect the integrity of the investigation, may not in all instances be able to share information with the institution.

The NCAA lacks subpoena power and other investigative tools and processes available to governmental investigating entities. Because of this, the successful adjudication of infractions cases is heavily dependent on the good faith efforts and, most importantly, the full and complete cooperation of member institutions and other involved parties under investigation by the enforcement staff. It is only through such cooperation that complete information can be gathered and analyzed by the enforcement staff, which allows the Committee on Infractions to reach just and fair conclusions regarding the facts of cases and to impose appropriate sanctions, if necessary. The bylaws are proposed and enacted by the NCAA members as mutual expectations for membership. They are a statement of the obligations that members have voluntarily undertaken to promote the core values of

the NCAA including ethical conduct, honesty and rules compliance upon which the NCAA was founded.

Regrettably, in this case, the institution failed to meet its obligation as outlined in the above bylaws. As discussed above, prior to his November 18 interview with the NCAA, student-athlete 2 was informed about specific information, which had been conveyed to the institution by the enforcement staff regarding student-athlete 2's possible involvement in impermissible agent activity. In his first interview with the NCAA, student-athlete 2 denied involvement with agents. On November 19, additional information was received by the enforcement staff indicating that both student-athletes 1 and 2 had received clothing from individuals associated with agents. Student-athlete 1 was immediately interviewed regarding this information and reported receiving clothes from his cousin's roommate. Notably, the institution did not have the opportunity to speak to student-athlete 1 about the provision of clothes before he was interviewed by the NCAA. However, as earlier described in this report, the institution did speak to him after his interview with the NCAA and, at that time, he changed his testimony from what he had told the enforcement staff regarding the source of the clothing he received.

At the hearing, the AGA staff member who conducted the investigation recounted the information he received from student-athletes 1 and 2 regarding communication they had with institution officials prior to their interviews with the NCAA:

If you will, during my interviews with (student-athletes 1 and 2), I did ask them what they knew and what were they told before the interviews. Both of them said they were pulled aside and were asked about (the former football student-athlete – "agency employee"). They were told that I would be asking about (the co-owners of the Atlanta-based sports agency), and that continued throughout the process. You know, after that initial interview with student-athlete 2 on November 18th, it was November 19th we received the additional information about clothes and what went into the interview with (student-athlete 1). (Student-athlete 1) was the first one confronted about clothes in that interview. As you know, he acknowledged receiving that. After that interview, we interviewed student-athlete 2 and asked (him) what knowledge he had coming into this second interview with him, and he stated that (the head football coach) pulled him aside about 20 minutes prior to the interview and said that (the NCAA) would be asking him about some clothes.

Although the institution's president did not believe that the institution's actions impeded the NCAA's investigation or rose to the level of a failure to cooperate, he was, nonetheless, concerned with the decision made to disobey the instructions from the

enforcement staff to share information only with the director of athletics and the president. On that issue, the president said the following at the hearing:

Quite frankly, when I heard about the decision (to inform the head coach), I was very concerned and asked (the director of athletics) to explain his rationale in telling (the head football coach), when the enforcement staff asked us to keep this limited. (The) director told me (about a) previous experience in a similar situation, and understanding the relationship that exists between the player and their coach. While I think (in) the end (he) could have and should have chosen a different course of action, the simple fact this is a managerial decision. I felt at that time that we should have taken a different approach. If (the director of athletics) felt it was important to tell (the head football coach), he should have contacted the NCAA staff and requested approval to do so . . .

The committee concluded that by "preemptively" speaking to student-athlete 2 about the information received by the NCAA, which was the subject of a later interview with student-athlete 2, the institution caused student-athlete 2's interview with the NCAA to be tainted. This, in turn, impeded the enforcement staff's investigation and hindered the committee in getting to the truth in this case.

**3. FAILURE TO MEET THE CONDITIONS AND OBLIGATIONS OF MEMBERSHIP. [NCAA Constitution 3.2.4.3 and Bylaw 14.11.1]**

In late 2009, the institution failed to meet the conditions and obligations of membership in that the institution did not withhold student-athlete 1 from competition when the institution was made aware of information which raised serious questions about whether he was involved in violations of NCAA legislation and thus should have been declared ineligible.

**Committee Rationale**

The institution and the enforcement staff were not in agreement on the facts of this finding. The committee finds that the violation occurred.

On November 24 and December 2, 2009, the institution was advised by the enforcement staff that student-athlete 1 may have jeopardized his eligibility. The institution subsequently allowed him to compete in the final three contests of its football team's 2009-10 season, which included the ACC Conference championship game and a post season Bowl game. As set forth earlier in this report, the committee could not find violations associated with student-athlete 2, as the institution's actions in alerting him of

information about which he would be questioned by the enforcement staff hindered the investigation and, in the end, prevented the committee from making conclusions regarding his culpability in violations and subsequent eligibility status. However the information reported by student-athlete 1 in his interview with the enforcement staff was clearly sufficient for the institution to withhold student-athlete 1 from competition. Moreover, as earlier stated, there was ample warning from the NCAA that student-athletes 1's eligibility was in jeopardy.

It appeared to the committee that the institution attempted to manipulate the information surrounding potential violations involving student-athlete 1 so there would be enough doubt about its validity to justify the decision not to declare him ineligible. Student-athlete 1 was a very talented member of the football team. He was an NFL prospect and a key contributor to his team's success at his position. It is understandable that the institution would not want to lose such a valuable football player for its very important end of the season games. To that end, in a November 24 email from the compliance director to the office of the ACC seeking guidance on whether there was a violation associated with the provision of clothing to student-athlete 1 (Finding B-1), the compliance director provided an incomplete account of the circumstances surrounding the provision of clothing to student athlete 1, and omitted key information and embellished other information, namely:

- The compliance director wrote that student-athlete 1 had an "established" relationship with his cousin's roommate, yet during student-athlete 1's November 19 interview with the NCAA, he could not provide the roommate's name and knew him only by his nickname.
- That student-athlete 1's cousin, by text message, had invited both student-athlete 1 and student-athlete 2 to his home because his (the cousin's) roommate had something for both young men.
- That the agency employee, a former teammate of student-athletes 1 and 2, who was also a friend of the roommate, was present.
- That student-athlete 1 had heard that the former football student-athlete / "agency employee" was working for an agent. Further, that student-athlete 1 speculated the clothing was given to influence student-athlete 1 to use the agency employee in obtaining an agent.
- That student-athlete 1 had the agency owner's name and phone number in his phone. (Note: This was revealed in student-athlete 1's November 19 interview.)

- That the institution had banned the former student athlete ("agency employee") from using weight training facilities and complimentary ticket admissions on the date of student athlete 1's interview with the NCAA.
- That NCAA investigators had been to campus to investigate potential agent involvement.
- Most importantly, that the institution had received an email from the NCAA's director of agents, gambling and amateurism that same day in which the AGA director warned the institution that both student-athletes 1 and 2 may have jeopardized their eligibility.

Based on the information submitted by the compliance director, the ACC office ruled that there was "(insufficient) information to warrant a violation or rendering the student-athlete ineligible at this time. However, we would encourage that you continue the investigation, including speaking with the roommate and determining if he has any involvement with agents, boosters or others." As the investigation revealed, the roommate had ties to the agency employee, who was employed by an Atlanta-based sports agency.

Despite the institution's conference office having identified the need to determine if there was any involvement with agents, and the institution having been made aware of possible agent activity during the investigation, the compliance director failed to provide this information to the ACC office.

The committee noted that, not only did student-athlete 1 report information regarding the former football student-athlete ("agency employee") being associated with an agent, but so did another football student-athlete and, most significantly, an assistant football coach. In fact, the assistant coach reported he heard that the former student-athlete was working for a specific individual who owned an Atlanta-based sports agency.<sup>2</sup> Despite being aware of information connecting the agent employee with the Atlanta-based sports agency, the institution did not attempt to follow up on this information. Nevertheless, the institution apparently thought this information was sufficiently reliable to take action against the former football student-athlete (the "agency employee"). Specifically, on November 19, 2009, the date of the first interview with student athlete 1, the university banned the former student-athlete (agency employee) from the university's training facilities and his access to complimentary tickets to the institution's athletics contests.

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<sup>2</sup> This "rumor" was later confirmed as fact in an email from the NFLPA to the AGA staff member assigned to this case.



At the hearing, the compliance director was questioned about the circumstances surrounding the questioning of student-athlete 1 and communication with the conference office:

**COMMITTEE MEMBER:** So, in that interview, (student-athlete 1) said that he had received the clothes and, in fact, he brought them back to your office?

**COMPLIANCE DIRECTOR:** Yes, ma'am.

**COMMITTEE MEMBER:** So, did you not think at least there was a preferential treatment violation?

**COMPLIANCE DIRECTOR:** Yes, ma'am, I did believe that.

**COMMITTEE MEMBER:** Then why wasn't he declared ineligible and reinstated?

**COMPLIANCE DIRECTOR:** Because (the general counsel) and I felt that after (student-athlete 2's) interview and (student-athlete 1's) interview, there was confusion exactly where the clothes came from so, therefore, we felt that if the clothes came from (the cousin's) roommate, then, yes, it would have been a preferential treatment. If the clothes came from (the cousin), we believed that because of the cousin, the blood relationship, that was not preferential treatment. They had an established relation of doing that. That is why I followed up at the time with the email to the ACC, and then (the general counsel) followed up with the interview with (student-athlete 1).

As previously set forth, the "confusion" regarding the source of the clothing was likely attributable to the institution speaking to student-athlete 2 prior to his interview with the enforcement staff and later re-interviewing student-athlete 1 at which time he altered the information that he had earlier reported to the enforcement staff.

At the hearing the institution's president acknowledged the irony of the institution's reactions to the investigation and further candidly acknowledged that the institution likely made mistakes in this case:

I believe that we could have done things better. If I had to do it over, we might have done things differently. We probably would have declared (student-athlete 2) and various colleagues ineligible, and it appears they would quickly be reinstated. We might have been more aggressive in our own investigation and not rely on advice of our chief legal counsel, who was not experienced in these issues.

**4. IMPERMISSIBLE TRYOUTS. [NCAA Bylaws 13.11.1 and 13.11.3.2]**

During May 2009 and May 2010, staff members of the institution's athletics department were involved in the conduct, administration and evaluation of physical activity involving prospective student-athletes that occurred in an institutional facility in violation of NCAA tryout legislation. Specifically:

- a. During May 2009 and May 2010, a then men's basketball graduate assistant ("former graduate assistant") acted as an event operator and gym manager for a nonscholastic basketball tournament ("the tournament") conducted at the institution's campus recreation center and which involved numerous prospective student-athletes.
- b. During May 2010, an academic advisor for men's basketball ("academic advisor") observed portions of the 2010 Wallace Prather Jr. Memorial Classic, evaluated prospects and reported his observations to the institution's men's basketball coaching staff via email.

**Committee Rationale**

The enforcement staff and institution were in substantial agreement as to the facts of the finding and that the violation occurred, but the institution believed that the finding should be classified as secondary while the enforcement staff believed that the finding was a major violation. The committee finds that the violation occurred and that it is major.

As background, the tournament in question was a nonscholastic event operated by a local team and had been held on the institution's campus in the Recreation Center for a 10-year period starting in 2000. During the 2009 and 2010 tournaments, approximately 30 teams attended, with the majority of the teams composed of young men in the age range of 14 to 17. On October 29, 2009, the NCAA Division I Board of Directors adopted a staggered implementation plan to address recruiting issues in Division I men's basketball. Included in these actions was an interpretation of NCAA Bylaws 13.15.1 and 13.11.1 relating to the conduct of nonscholastic events involving men's basketball prospective student-athletes conducted on Division I campuses, such as in this case. The interpretation, effective October 29, 2009, specified that a violation would occur if a men's basketball staff member or a representative of the institution's athletics interests was involved in any way in the operation or planning of a men's basketball nonscholastic event on its campus. Violations of the interpretations adopted by the Board of Directors in these actions were and are automatic violations of NCAA recruiting rules.

Concerning Finding B-4-a, the institution acknowledged that contrary to Bylaw 13.11.3.2, the former graduate assistant attended and assisted with the administration of

the 2009 and 2010 tournament. The former graduate assistant was a graduate student at Georgia Tech from August 2008 to May 2010. In 2009, he served as the "gym coordinator" on behalf of the institution. The former graduate assistant said that, in 2009 he was unaware that as a graduate assistant, he was not permitted to assist in the operation of the event. Included in the tasks he performed during both 2009 and 2010 was the creation of a welcome packet for the participants. This welcome packet included directions to the institution's campus, a campus map, a listing of local restaurants and the tournament schedule. Also contained in the packet was a letter printed on the institution's men's basketball letterhead addressed to participating teams' coaches welcoming them to the institution's campus and signed by the then head men's basketball coach. On the same page, immediately below the letter was a section titled, "Georgia Tech Staff Contact Information." Listed were the telephone numbers for several men's basketball staff members.

The former graduate assistant stated that his role changed for the 2010 event. He was told to attend the event to assist with any problems, but that an individual employed by the AAU team was serving as the event coordinator. The former graduate assistant recalled being informed in February 2010 by the compliance staff that no member of the men's basketball staff could have any involvement with a non-scholastic event on campus. The former graduate assistant stated that he believed the new interpretation did not apply to him since he had completed his exams the week prior to the event. In his view, he no longer was a graduate assistant. However, he never checked with compliance to confirm his status.

The head men's basketball coach and the director of basketball operations were both aware that the former graduate assistant was present at the event, although the former graduate assistant contended that he did not evaluate prospects at the tournament nor did he report any information to the coaching staff. Contrary to the former graduate assistant's claim, during the 2010 tournament, members of the NCAA's basketball focus group staff observed the former graduate assistant taking notes on paper titled, "Georgia Tech Basketball Camp." These notes included the names of certain prospective student-athletes, the prospects' nonscholastic team and the coach of those nonscholastic teams. Next to the prospective student-athletes' name, the former graduate assistant also made various notes including skill level, year of high school graduation and the high school the prospective student-athlete attended. The former graduate assistant described conversations with two Georgia Tech assistant men's basketball coaches during the tournament. Although the former graduate assistant denied that he discussed specific prospective student-athletes with one of the assistant coaches, he did tell one of the assistant coaches which teams won certain games and which teams qualified for the championship game. The committee noted that, during the tournament, there were 28 cell phone contacts between the former graduate assistant and the two assistant coaches mentioned previously. In light of the notes taken on prospects by the former graduate

assistant, combined with his frequent contact with members of the men's basketball coaching staff, the committee concluded that the former graduate assistant did, in fact, actively participate in this tournament and evaluate prospects in violation of recruiting legislation.

Concerning Finding B-4-b, the institution acknowledged that contrary to Bylaw 13.11.1, the academic advisor observed portions of the tournament and reported his observations to members of the coaching staff via email. Although the academic advisor's attendance at the event was not contrary to NCAA legislation, a violation occurred when he sent an unsolicited email to members of the coaching staff that included his thoughts regarding five prospects who participated in the event. His stated reason for sending the email to the coaching staff was that it was an attempt to prove his value as a future coach at the Division I level.

The committee concluded that these were major violations. They were not isolated because the violations occurred over two academic years and involved members of the men's basketball staff. They were also not inadvertent, as the institution and head men's basketball coach were aware of its staff members' involvement in the tournament, which had occurred on the campus for a period of 10 years. Further, the institution and the head men's basketball coach had adequate notice that involvement in the event was in direct violation of the Board of Director's October 29, 2009, actions. The violations provided the men's basketball program more than a minimal recruiting advantage. Members of the men's basketball staff were not only present during the nonscholastic event but conducted evaluations of the prospective student-athletes participating in the event outside of a designated men's basketball evaluation period. The recruiting advantage obtained by the institution is also reflected in the fact that four prospects from the AAU team sponsoring the tournament ultimately became men's basketball student-athletes at Georgia Tech.

### **C. SECONDARY VIOLATIONS:**

1. During the 2009-10 season, members of the men's basketball staff provided 10 impermissible discretionary tickets to men's basketball contests in a manner contrary to NCAA legislation. Specifically:
  - a. On six occasions between December 20, 2009, and February 16, 2010, members of the men's basketball staff exceeded the maximum provision of two tickets to individuals responsible for the teaching or directing of an activity in which a prospective student-athlete was involved (10 total tickets).

2. On June 13, 2010, a football student-athlete was provided admission to the Georgia Aquarium, a meal and a bag of nonperishable items by two representatives of the institution's athletics interests (\$74).
3. A men's basketball student-athlete was provided two additional impermissible discretionary tickets to a November 14, 2009, home intercollegiate athletics event in excess of the four permissible complimentary admissions.

#### **D. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation involving Georgia Tech's two flagship sports; football and men's basketball. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] The committee also took into account the fact that the institution is considered a repeat violator in accordance with Bylaw 19.5.3.

Fortunately, instances in which member institutions do not cooperate with the NCAA enforcement program are rare. Regrettably, in this case, Georgia Tech officials disobeyed explicit instructions from the enforcement staff to protect the integrity of the investigation. The institution compromised the investigation when it shared with a student-athlete (student-athlete 2) information relating to potential violations about which he was to be questioned by the enforcement staff in a future interview (Finding B-2). The institution later compounded the problem by allowing a student-athlete to compete despite the fact that his eligibility was in question (Finding B-3). As a result of these extremely serious violations, stringent penalties are warranted, including a lengthy period of probation, a substantial fine and a vacation of records. In imposing a fine, the committee considered the serious nature of the violations, the institutional responsibility for those violations, and the impact of the fine on the institution, rather than a particular team or program. Imposition of fines are within the committee's discretion under Bylaw 19.5.2.2-(f) and this case is appropriate for imposition of that penalty.

The committee imposes the following penalties. The institution's self-imposed penalties are noted.

1. Public reprimand and censure.
2. Four years of probation from July 14, 2011, through July 13, 2015.

3. A financial penalty in the amount of \$100,000. Payment of the fine shall be made at the time the institution's preliminary compliance report is due (August 29, 2011).

#### **Men's Basketball Penalties**

4. The number of "recruiting-person" days will be reduced by two during the summer evaluation period in 2011. (institution imposed)
5. No complimentary tickets will be provided to all high school coaches and individuals associated with prospective student-athletes for the first home game of the 2011-12 basketball season. (institution imposed)
6. A limit to 10 in the number of official visits for men's basketball for the 2011-12 and 2012-13 academic years.

#### **Football Penalties**

7. As set forth in Finding B-3, on November 24 and December 2, 2009, the institution was advised by the enforcement staff that both student-athletes 1 and 2 may have jeopardized their eligibility. The institution subsequently allowed the two student-athletes to compete in the final three contests of its football team's 2009-10 season. As previously established, the committee could not find violations associated with student-athlete 2, as the institution's actions in alerting him of information about which he would be questioned by the enforcement staff hindered the investigation and, in the end, prevented the committee from making conclusions regarding his culpability in violations and subsequent eligibility status. Nevertheless, the institution should have withheld student-athlete 1 from competition until such time as his eligibility status could be resolved. As a result, and pursuant to NCAA Bylaws 19.5.2.2-(e)-(2) and 31.2.2.3-(b), the institution will vacate all contests won by the institution's football team after November 24, 2009, the day that it was alerted by the NCAA that student-athletes 1's eligibility was in question, and ending with the institution's bowl game, which concluded the 2009 season. [Note: The only contest won by the institution's football team during this time period was the 2009 ACC championship game.] The individual record of student-athlete 1 during this time frame shall be vacated as well. Further, the institution's records regarding football, as well as the record of the head football coach, will reflect the vacated records and will be recorded in all publications in which football records for the 2009 season are reported, including, but not limited to, institution media guides, recruiting material, electronic and digital media plus institution and NCAA archives. Any institution, which may

subsequently hire the head football coach, shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. The head football coach may not count the vacated win to attain specific honors or victory "milestones" such as 100th, or 200th career victories. Any public references to the vacated 2009 ACC football championship shall be removed, including from athletics department stationery, banners, trophies and awards displayed in public areas and any other form in which they may appear.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the specific student-athlete(s) and contest(s) impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than forty-five (45) days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process.

### **Other Penalties**

8. The director of athletics, the head football coach, the compliance director and the academic advisor shall attend an NCAA Regional Rules Seminar in 2012. [Note: the compliance coordinator has since left the employ of the institution and will be independently notified of this requirement.]
9. During this period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by September 1, 2011, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by April 15 of

each year during the probationary period. Particular emphasis should be placed on policies and procedures relating to agents and agent activity in addition to policies and procedures pertaining to the withholding of student-athletes from competition when potential violations are discovered. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

10. The institution shall:
  - a. Inform prospective student-athletes in football and men's basketball that the institution is on probation for four years and the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent.
  - b. Publicize the information annually in the football and men's basketball media guides (or web posting), as well as in a general institution alumni publication to be chosen by the institution with the assent of the office of the Committees on Infractions. A copy of the media guides, alumni publication, and information included in recruiting material shall be included in the compliance reports to be submitted annually to the Committees on Infractions.
11. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
12. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, Georgia Institute of Technology shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, July 14, 2011.

Should Georgia Institute of Technology or an involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals



Committee, the Committee on Infractions will submit a response to the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

**NCAA COMMITTEE ON INFRACTIONS**

Britton Banowsky

Melissa (Missy) Conboy

Roscoe C. Howard Jr.

Eleanor W. Myers

James O'Fallon

Gregory Sankey

Dennis E. Thomas, chair

Thomas E. Yeager

**APPENDIX ONE**  
**CASE CHRONOLOGY**

**2008**

August 26 – Institution hires former men's basketball graduate assistant.

**2009**

May 8 – 10 – The nonscholastic basketball tournament is held at the institution's on-campus recreation facility.

October 29 – NCAA Division I Board of Directors adopts a staggered implementation plan to address recruiting issues in Division I men's basketball, including the conduct of nonscholastic basketball events on member institutions' campuses.

November 11 – Agent, gambling and amateurism (AGA) staff advised institution that information had been developed regarding possible violations of NCAA legislation involving football student-athletes and instructed that only the director of athletics and president be advised.

November 19 – AGA staff and enforcement staff conduct on-campus interviews.

December 2 – Enforcement staff members meet with ACC office to discuss the Board of Directors' actions.

December 16 – Enforcement staff, AGA and institution conduct on-campus interviews.

December 20, 2009, through February 16, 2010 – The institution provides impermissible complimentary admissions to home contests to individuals associated with prospective student-athletes.

**2010**

January 25 – Institution self-reports violations of complimentary admissions legislation in men's basketball.

April 8 – The enforcement staff conducts on-campus interviews of the then head men's basketball coach; an assistant men's basketball coach; the men's basketball assistant coordinator; the director of ticket operations; the assistant director of ticket operations; and the assistant director of athletics for compliance.

May 7-9 – The nonscholastic basketball tournament is held on the institution's campus.

May 10 – The enforcement staff presents October 29, 2009, Board of Directors' actions to ACC head men's basketball coaches.

May 25 – NCAA enforcement staff and basketball focus group interview the academic advisor to men's basketball, and other men's basketball staff on campus.

May 25 – The enforcement staff conducts on-campus interviews of the then head men's basketball coach, the assistant director of athletics for compliance, a former men's basketball graduate assistant; the academic advisor for men's basketball; and the assistant director of compliance.

September 13 – Notice of inquiry sent to the institution's president.

December 11 – Notice of allegations sent to the institution's president.

## **2011**

March 17 – Response to the notice of allegations received from the institution.

March 22 – Prehearing conference with the institution.

March 24 – Prehearing conference with the assistant director of athletics for compliance.

April 15 – The institution appeared before the NCAA Division I Committee on Infractions.

July 14 – Infractions Report No. 345 released.

## **APPENDIX TWO**

### **CORRECTIVE ACTIONS**

#### **Football:**

- The institution has prohibited two former football student-athletes, one of whom was "the agency employee," from using any athletics department facilities and receiving complimentary tickets. This action was effective for an indefinite period of time beginning on November 19, 2009.
- Will revise the institution's policy on the review of information concerning potential violations to ensure that the roles of the faculty athletics representative and internal and external legal counsel are more clearly defined.
- Will utilize a committee similar to that established as part of this inquiry to be involved in those situations when potential significant major violations are being reviewed by the institution.
- Reinforced to all appropriate athletics department staff members the necessity for the proper forwarding of information concerning potential violations, and
- Conducted a rules education session with representatives of the institution's athletics interests and a football student-athlete regarding extra benefits.

#### **Men's Basketball:**

- The institution was prepared to suspend the former head men's basketball coach for the first contest of the 2011-12 men's basketball season, but his contract was not renewed following the conclusion of the 2010-11 season.
- The institution was prepared to require the then head men's basketball coach and two assistant men's basketball coaches to attend the 2011 NCAA Regional Rules Seminar, but as earlier set forth, these coaches were not retained following the conclusion of the 2010-11 season.
- Provided a men's basketball student-athlete rules education regarding the complimentary ticket process for student-athletes, and he was required to make a donation to the charity of his choice for the cost of \$40, the value of two tickets.
- Reviewed Bylaws 16.2.1.1 and 16.2.1.12 with men's basketball administrative coordinator and the director of operations for men's basketball.
- Will prohibit the nonscholastic basketball tournament from being held at any of the institution's campus facilities.
- Discussed applicable legislation and interpretations with the entire academic services staff regarding noncoaching staff members.
- Discussed applicable legislation and interpretations with the entire men's basketball coaching staff on Friday, February 18, 2011.

- Reviewed the complimentary ticket procedures with the men's basketball staff in February and October 2010.
- Increase the number of required educational sessions with the men's basketball coaching staff to ensure that one such session occurs monthly during each academic year.
- Issue letter of reprimand to the former head men's basketball coach, the academic advisor to men's basketball and to an assistant men's basketball coach for their involvement in Finding B-4.
- Suspend the academic advisor to men's basketball for one day without pay for his actions in Finding B-4.
- Issue letters of reprimand to two assistant men's basketball coaches and the head men's basketball coach (now former head coach) for their involvement in violations of NCAA legislation.
- Issued a letter of admonishment to the men's basketball administrative coordinator and conducted rules education with her.
- Declared a football student-athlete ineligible until \$74 dollars was paid to a charity of his choice. The student-athlete has donated the funds and has since been reinstated.
- Issued a cease and desist letter from the director of athletics. to a representative of the institution's athletics interest.

# Exhibit 2

**REPORT OF THE  
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION  
DIVISION I INFRACTIONS APPEALS COMMITTEE**

**June 3, 2005**

Report No. 224

University of Georgia

Athens, Georgia

This report is filed in accordance with NCAA Bylaw 32.11 and is organized as follows:

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## **I. INTRODUCTION.**

The University of Georgia (hereinafter referred to as Georgia) appealed to the NCAA Division I Infractions Appeals Committee specific findings of violations and penalties as determined by the NCAA Division I Committee on Infractions. In this report, the Infractions Appeals Committee addresses the issues raised by Georgia.

## **II. BACKGROUND.**

On August 5, 2004, the Committee on Infractions issued Infractions Report No. 224 in which the committee found violations of NCAA legislation in the men's basketball program. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties accordingly. [August 16, 2004, issue of The NCAA News.]

This case centered on violations of NCAA bylaws governing academic fraud, unethical conduct, impermissible recruiting and lack of institutional control.

After the Committee on Infractions issued its report, Georgia filed a timely Notice of Appeal August 24, 2004. A written appeal was filed October 15, 2004. The Committee on Infractions filed its response November 17, 2004. The case was considered by the Infractions Appeals Committee March 25, 2005 (Section VII).

## **III. VIOLATIONS OF NCAA LEGISLATION AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.** [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated August 5, 2004.]

### **A. IMPERMISSIBLE RECRUITING INDUCEMENT. [NCAA Bylaws 13.2.1 and 13.2.2-(e)]**

In July, 2001 the assistant coach sent \$300 by wire to the Baton Rouge, Louisiana, residence of the friend's mother at whose home student-athlete 1 was temporarily living. The \$300 was for payment of expenses incurred by student-athlete 1 while living at the residence.

### **Committee Rationale**

The university and enforcement staff were in substantial agreement on the facts and that NCAA violations occurred. While the assistant coach acknowledged sending \$300 in a wire transfer to the friend's mother, he claimed that he acted only as an "intermediary" between student-athlete 1 and two Rhode Island residents, hereafter "Rhode Island resident 1 and 2," who had befriended student-athlete 1 and who were not representatives of Georgia's athletics interests. In that light, the assistant coach believed that his conduct was,



at worst, only a secondary violation of NCAA legislation. The committee found that the wire transfer constituted a recruiting inducement, and was a major violation.

In considering the circumstances of this violation, the committee heard, read, and evaluated a great deal of information provided by the NCAA enforcement staff, the university, and the assistant coach. While the committee sets forth much of that information here, it does so simply to provide context and background. That there is a major violation is clear – and may be demonstrated based exclusively on what is admitted by the assistant coach. As he himself admits, he wired \$300 to the friend's mother for some purpose related to student-athlete 1 and within weeks of the wire transfer student-athlete 1 had enrolled at the university.

As described by the friend's mother in the aforementioned February 27, 2003, ESPN broadcast, student-athlete 1 incurred "280 some-odd dollars" in long-distance charges on her telephone bill; a Georgia coach agreed to reimburse her; and she received \$300 in a wire transfer on July 3, 2001. When interviewed by the enforcement staff, the friend's mother said that in summer 2001 student-athlete 1 stayed with her in Baton Rouge, Louisiana, while he completed a community college class. She said that one of the Georgia coaches, whose identity she could not recall, telephoned to thank her for letting student-athlete 1 stay with her and said to let him know if student-athlete 1 incurred added expenses. When she later confronted student-athlete 1 about the phone charges, he told her not to worry as he would take care of them; a day or so later he handed her the telephone and said a particular coach (he gave the last name of the head and assistant coach) was on the line. She said this coach told her that he would take care of the telephone bill. After the call, student-athlete 1 told her the coach would send the money in a Western Union wire transfer. Two to three days later she received the \$300 wire transfer; the name listed as the sender was (the last name of the head and assistant coach) and the friend's mother was listed as the recipient. A Western Union record containing this same information was displayed in the ESPN broadcast.

The assistant coach acknowledged that he spoke by phone with the friend's mother on July 2 and 3, 2001, that he wired \$300 to her for some purpose related to student-athlete 1, and that he arranged for student-athlete 1 to make an official visit to the university on July 28, 2001. (Note: phone records confirm that the assistant coach made phone calls on July 2 and 3 to the home of the friend's mother.) The assistant coach provided various explanations for his involvement.

On February 27, 2003, when first questioned by the university about the \$300 wire transfer, the assistant coach said, "Yeah. There is a Western Union receipt. I wire-transferred money to (the friend's mother) for bus fare for (student-athlete 1) to come to

Athens to enroll in school.” The assistant coach went on to claim that the money came from a foundation, hereafter “the Foundation,” that previously had provided financial assistance to student-athlete 1 and that he had written proof of the Foundation payment. No written proof ever was provided.

In a March 3, 2003, interview with the enforcement staff and the university, the assistant coach said that in late June 2001 student-athlete 1 telephoned him to say he was staying at the friend's mother's home in Baton Rouge. The assistant coach said that he telephoned the friend's mother on July 2 and 3, 2001, and that on one of these calls, he spoke first to student-athlete 1 before student-athlete 1 put the friend's mother on the telephone. In this interview the assistant coach denied talking about money or about paying any of student-athlete 1's expenses, including a telephone bill. The assistant coach also reported that he spent the July 4, 2001, weekend in Providence, Rhode Island, and that while there Rhode Island resident 1 telephoned him and said that he was a friend of student-athlete 1, had money for student-athlete 1's "legal defense," and wanted the assistant coach's help to get the money to the student-athlete. The assistant coach said that at this time he did not know Rhode Island resident 1 and believed that the head coach may have given his telephone number to Rhode Island resident 1. (Note: The head coach confirmed that he gave Rhode Island resident 1 the cell phone number of the assistant coach; the head coach also said that he did not ask why Rhode Island resident 1 wanted the phone number.)

When interviewed on September 25, 2003, the assistant coach reverted to the account he provided on February 27, 2003, – that he telephoned the friend's mother in Baton Rouge because he had money to cover student-athlete 1's bus ticket to the institution's campus to enroll and that he needed the friend's mother's address so he could send her the money. Later in that same September 25 interview, the assistant coach made reference to Rhode Island residents 1 and 2 and said that a defense fund had been put together for student-athlete 1. He also said both in that interview and at the hearing that part of the \$300 came from the Foundation. (Note: at the hearing the head coach relayed a conversation with the individual who established and administers the Foundation, henceforth the "Foundation Administrator," and said that he did not know whether the Foundation Administrator provided some of the \$300.)

Despite saying in both the February 27, 2003, and September 25, 2003, interviews that the \$300 was provided so that student-athlete 1 could travel to the university to enroll, at the hearing and in his March 3, 2003, interview the assistant coach insisted that he was not recruiting student-athlete 1 when he wired the \$300. In the March 3 interview, the assistant coach said that while employed at the University of Rhode Island in fall 1998 he assisted in the recruitment of student-athlete 1, that student-athlete 1 signed a National

Letter of Intent with Rhode Island in November 1998, and that he later enrolled at a junior college after he did not meet NCAA academic qualification standards.

The assistant coach joined the Georgia coaching staff in May 2001. He said that he was told to develop a short list of point-guard prospects as back-up to a prospect who had signed a national letter of intent but had not qualified. The assistant coach said that he contacted student-athlete 1 and his junior college coach and that he stopped recruiting student-athlete 1 because he believed that the young man would not be NCAA-eligible. The assistant coach said that student-athlete 1 began calling him to express interest in attending the university and told him that he would take summer classes to become eligible. The assistant coach said he stayed in contact with student-athlete 1 and arranged for him to make an official paid visit on July 28, 2001; student-athlete 1 traveled by plane from Baton Rouge to the university. (Note: the point guard prospect who was Georgia's first choice did not qualify.)

At the hearing the assistant coach repeated that he was not recruiting student-athlete 1 when he wired the \$300. However, the assistant coach contradicted this position when he was asked by a committee member if he felt uncomfortable being involved in the provision of the \$300 to student-athlete 1. The assistant coach replied, "Well, of course, anytime you deal with a prospect and the thought of money..."

With regard to the question of whether the university considered student-athlete 1 a prospect, the Georgia athletics department administrator who monitors incoming prospects' eligibility reported that, "I am familiar with the fact that we did sign (the original point guard prospect), but I am also familiar with the fact that we were recruiting (student-athlete 1). I was continuously asked to monitor his academic situation, look at various transcripts. I was told he was taking some summer work in Baton Rouge and a correspondence course. So I am under the impression the entire summer of 2001 that we are recruiting (student-athlete 1)."

Rhode Island residents 1 and 2 were interviewed by the enforcement staff and the university. They said that they met student-athlete 1 during the 1999-00 season when he was attending a two-year community college in Rhode Island, that they assisted him with his room and board expenses at the community college, that they knew he had received money from the Foundation, and that, when he was dismissed from the community college basketball team, they tried to locate him by e-mailing the Foundation Administrator. They claimed that in June 2001 the Foundation Administrator e-mailed to tell them student-athlete 1 would be attending Georgia and "needed some help." Rhode Island resident 1 said that two days later student-athlete 1 phoned from Louisiana to say he had no money to pay for travel to the Georgia campus. Rhode Island residents 1 and 2 decided to give student-athlete 1 \$300 for transportation expenses. Rhode Island resident 1 said he telephoned the head coach, whom

he knew, and obtained the cellular phone number of the assistant coach, whom he did not know, and then phoned the assistant coach. He said he met the assistant coach in the parking lot of a Providence, Rhode Island, restaurant, handed him \$300 cash, and told him, "I hope you guys win the national championship. I hope (student-athlete 1) becomes an all-American, but let him know I'm done."

When media reports quoted the assistant coach as saying the \$300 came from the Foundation, the Foundation Administrator phoned NCAA and university officials to deny it: The Foundation Administrator said that he knew neither Rhode Island resident 1 or 2 and he also unequivocally denied providing \$300 either to them or to the assistant coach. In a March 3, 2003, tape recorded conversation with the university's investigator, the Foundation Administrator said, "Well, you don't have to be a Rhodes Scholar to figure this out. First of all, there is nothing illegal if I do it, which I did not do, but, so, why would I send money from Baton Rouge, Louisiana, to Athens in a clandestine move and then send it from Athens to Baton Rouge. Why wouldn't I walk over to this woman's (the friend's mother's) house or apartment or wherever she lives and give her \$300?" The Foundation Administrator added that, "If someone was going to use (me) as an alibi, they should call first to talk about it." He also said that on March 1 or March 2, 2003, the head coach called to apologize and explained to the Foundation Administrator that, his son, the assistant coach, made a mistake in using the Foundation as an alibi and "was looking for an explanation to provide to the media." Although counsel for the coaches insisted that the evidence was "undisputed" that the Foundation Administrator asked Rhode Island residents 1 and 2 to provide the \$300, in fact, in several interviews the Foundation Administrator was consistent in denying that he did so, including in an interview conducted by an investigator for counsel for the coaches.

The assistant coach offered no coherent explanation as to why Rhode Island residents 1 and 2 needed him to wire the \$300 nor why he agreed to be involved. He was asked who paid the cost of transmitting the \$300. Although he said he could not recall, he agreed that he received \$300, and no more, from Rhode Island resident 1 and that a fee was charged to wire the \$300.

The committee concluded that the assistant coach provided the \$300 and did so at a time when he knew that the university was recruiting student-athlete 1 and that the money was provided with the purpose of facilitating the recruitment. In reaching these conclusions the committee found that the information provided by the friend's mother was internally consistent and corroborated by other information (including the two telephone calls acknowledged by the assistant coach) and that the friend's mother had no reason to lie.

Conversely, the committee found each of the several explanations of the assistant coach not to be credible and also found that these explanations were inconsistent one to the

other. In particular, the committee found not credible the final explanation offered by the assistant coach (and by Rhode Island residents 1 and 2) – that a Foundation Administrator in Baton Rouge, Louisiana, would request residents of Rhode Island unknown personally to him to provide money to a prospect residing at the time in Baton Rouge, that these Rhode Island residents would inquire of the head coach in Georgia about making contact with a Georgia assistant coach unknown personally to them so that they might meet him in a restaurant parking lot in Providence, Rhode Island, and give him \$300 to wire to the prospect for them. Nor did the committee find credible the notion that the \$300 was to be used by student-athlete 1 for bus fare to the Georgia campus when approximately three weeks later the assistant coach arranged an official visit for student-athlete 1 and the student-athlete was provided an airplane ticket for travel to campus. Finally, the committee found not credible the claim by the assistant coach that he did not believe student-athlete 1 was a prospect when he wired the money.

In any event, and as the committee noted at the outset, the assistant coach's commission of this violation does not depend on any resolution of who was the source of the \$300 or for what purpose the money was to be used on behalf of student-athlete 1. As is set forth in Bylaw 13.2.1, it is a recruiting inducement when a staff member is involved "directly or indirectly" in "making arrangements for or giving or offering to give any financial aid or other benefits to the prospect." Based solely on admissions by the assistant coach, the fact and severity of this violation are proved. What the assistant coach admits is that (1) he spoke twice by telephone to the friend's mother on July 2, and 3, 2001; (2) on July 3, 2001, he sent \$300 by wire to the friend's mother for a purpose related to student-athlete 1; (3) on July 28, 2001, student-athlete 1 made an official paid visit to Georgia that was arranged by the assistant coach, and (4) 44 days after the assistant coach wired the \$300 student-athlete 1 enrolled at the university.

**B. UNETHICAL CONDUCT - KNOWING INVOLVEMENT IN A VIOLATION OF NCAA LEGISLATION. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(c)]**

The assistant coach failed to deport himself with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics and violated the NCAA principles of ethical conduct by his involvement in Finding II-A. Specifically, the assistant coach knowingly provided a \$300 wire transfer payment to pay expenses of student-athlete 1 in violation of NCAA recruiting legislation.

### **Committee Rationale**

The university and enforcement staff were in substantial agreement that the assistant coach acted unethically in his provision of the \$300. The assistant coach did not submit a specific written response to the allegation. His position at the hearing was that his involvement did not constitute unethical conduct because his conduct in providing the \$300 was, at worst, a secondary violation.

The committee concluded that the circumstances of the \$300 wire transfer set forth in the committee rationale for Finding II-A made clear that the assistant coach knowingly provided a recruiting inducement.

#### **C. UNETHICAL CONDUCT - ACADEMIC FRAUD; ENCOURAGING PROVISION OF MISLEADING INFORMATION [NCAA Bylaws 10.01.1, 10.1, 10.1-(b), 10.1-(d)] AND EXTRA BENEFIT [16.12.2.1]**

During fall 2001 the assistant coach failed to deport himself with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics and violated the NCAA principles of ethical conduct in that he (a) conducted the basketball coaching class in such a manner that the grades of “A” awarded to three men's basketball student-athletes constituted academic fraud and (b) encouraged two of the student-athletes enrolled in the class to provide misleading information to institutional and NCAA investigators about the administration of the course and the grading policy. Also, by the manner in which he administered the class the assistant coach provided an extra benefit to the student-athletes. Specifically:

1. Regarding the unethical conduct as reflected in the academic fraud. Thirty-nine students, including student-athletes 1, 2 and 3, were enrolled in the two-hour, upper-level basketball coaching class. On the first day of class the assistant coach distributed a syllabus (see Appendix Two), containing a course description, outline, topics, and objectives, that detailed how the students' academic performance would be evaluated and graded. The grading was as follows: midterm exam (30 percent), attendance and activity (30 percent), final exam (30 percent), and outside assignments (10 percent). Explicitly stated on the syllabus was that more than four unexcused absences would result in a grade reduction by one

letter grade. Midway through the semester the assistant coach apparently changed the course requirements to include as factors attendance at one practice and one game. The assistant coach had no method by which he could confirm which students successfully completed the course requirements and how they did so. According to university instructional policy, the assistant coach was required to administer a final exam, but student-athletes 1, 2 and 3 took no final exam. Student-athlete 1 likely never attended class while student-athletes 2 and 3 attended as few as one and no more than a few classes. Moreover, the institution already provided student-athletes the opportunity to receive one credit for varsity athletics participation, and, in fact, in fall 2001 student-athletes 1 and 2 already were so enrolled. There were 39 students enrolled in the class; each of them was awarded a grade of “A.”

2. Regarding the extra benefits. In his administration of the basketball coaching class the assistant coach provided student-athletes 1, 2 and 3 with an extra benefit. Among other things, these student-athletes were the only students in the class to receive course credit and grades of “A” based on activities already required of them as members of the men’s basketball team and who, in consequence, needed to do no work for the class.
3. Regarding the unethical conduct involved in the assistant coach encouraging student-athletes 2 and 3 to provide misleading information in interviews with the university and the NCAA. The assistant coach spoke to student-athletes 2 and 3 just prior to their March 3, 2003, interviews with university and enforcement staff and provided them a description of what purported to be his grading system for the basketball coaching class, a system that neither young man had heard of theretofore. The assistant coach told them that he had graded all of the students on a point system in which 25 points were awarded for each class, practice or game they attended and that they had earned enough points to justify their grades of “A.” Based on the assistant coach’s information, the two young men provided information about this point system when interviewed on March 3. The information was misleading because neither they nor any other student had any prior knowledge of such a point system. The assistant coach knew when he spoke to the student-athletes that they were to be interviewed by the institution and NCAA staff.

### **Committee Rationale**

The university and enforcement staff were in substantial agreement on the facts and that violations of NCAA legislation occurred. While the assistant coach did not submit a specific written response to this allegation, at the hearing the assistant coach denied commission of these violations. For the reasons set forth in detail below, the committee concluded that the assistant coach committed each of these violations.

### **Finding II-C-1**

Finding II-C-1 involves academic fraud committed by the assistant coach arising out of the course requirements and grading in the basketball coaching class as they pertained to the three men's basketball student-athletes enrolled in the class. The basketball coaching course is offered by the Department of Physical Education and Sports Studies, School of Health and Human Performance, College of Education. It is a degree requirement in the major of physical education and in the minor of athletic coaching. According to the chair of the department, hereafter "the department chair," critical observational performance and class attendance are important components of the class and integral to grading student performance.

Over the course of several interviews, the assistant coach provided several different and irreconcilable statements with regard to the circumstances and time line of his undertaking to teach the basketball coaching class as well as what were the course requirements. At the hearing the assistant coach was asked to provide his definitive time line and rendition of the circumstances. He stated that (1) the basketball coaching class was the first class he had ever taught; (2) he was asked to teach the class; (3) he was reluctant to teach the class, particularly as it was extra work for which he would not be paid; (4) the first conversation about the class occurred only about two days before the start of the semester, on or about August 15, 2001, in a meeting he had with a professor who previously had taught the class, hereafter "the PE professor," and the department chair; (5) the meeting was set up when he found a phone message from the department chair and returned the call; (6) the meeting lasted approximately one-half hour; they discussed course topics; and he informed the other two both that he had never taught a class and that he would need to miss a substantial number of classes; (7) they never discussed a course syllabus or that a final examination would need to be given; (8) there was a second meeting between him and the PE professor in which the PE professor gave him "a stack of papers" on basketball coaching; and (9) he never provided a resume, syllabus, or material from a course he taught at Marshall University (where he was previously employed) to the PE professor or the department chair.



The committee also asked the department chair to describe the circumstances surrounding the assistant coach's teaching of the course and the time line. He reported that (1) in early summer 2001 the assistant coach was approached by department faculty about teaching the basketball coaching course and the assistant coach expressed interest in doing so; (2) he met with the assistant coach in mid-July 2001 to review the assistant coach's credentials and qualifications for the course and also to review expectations for the course, particularly relating to department attendance policies; (3) he and the assistant coach met again in late July 2001 and at this time (or at the first meeting) they reviewed the course syllabus. They also discussed evaluation procedures, including the fact that a final exam would be required; (4) the PE professor was present at the late July meeting and provided old exams, detailed lesson plans and books he had used in the course; (5) the late July meeting took at least an hour and a half; (6) the assistant coach said he had taught a similar course at Marshall University; (7) the department chair met again with the assistant coach in early August; the assistant coach provided a resume, syllabus, and materials from the Marshall University course and also informed the department chair that he would miss some classes due to recruiting and other obligations but that a substitute, hereafter "the substitute," would fill in; the department chair understood the substitute to be a graduate student; (8) the department chair subsequently spoke to the substitute and concluded that he was familiar with the procedures of the class and was an appropriate substitute because he believed him to be a graduate student and because he was "acting in the capacity of the basketball staff at the University of Georgia." (Note: The substitute was the administrative assistant for the basketball team, not a graduate student.)

In substantiation of the description provided by the department chair, the university provided at the hearing a copy of the resume of the assistant coach. In the university's response, moreover, there was a copy of the syllabus and of the Marshall University materials that the assistant coach denied he had provided.

There was complete disagreement between the university and the assistant coach regarding what the assistant coach was told about course requirements. The assistant coach stated that he was not told that there was any particular requirement he had to meet, including any requirement to give a final examination. The department chair reported that the assistant coach was informed about course requirements and that he also discussed with the assistant coach the fact that a final examination would be required.

Moving to the actual teaching of the basketball coaching class, and without regard to what the assistant coach was told about the class, the assistant coach again provided a series of inconsistent statements.

The assistant coach admitted that on the first day of class he distributed the syllabus, one he said was provided by the PE professor. He insisted, however, that the syllabus was never intended to be used as such but only to provide his office, phone, and e-mail information. He offered no explanation why he would go to the trouble of taking the PE professor's syllabus and substituting his information for that of the PE professor rather than simply providing his information separately by, for example, distributing a sheet of paper with the information or writing it on the blackboard.

Even assuming that the assistant coach never intended to use the syllabus as a syllabus, and never intended to grade in line with the grading policy there set forth, that decision in and of itself constituted academic impropriety. At the hearing the university provost, hereafter "the provost," discussed institutional expectations regarding changes to a grading policy delineated on a written course syllabus.

**Provost:** We, in fact, expect instructors at the University of Georgia to basically adhere to (the published requirements of the course), although there will be slight modification, but certainly not to the extent in terms of a grading policy, that is announced at the beginning of a course, to change to that of a 425-point system, as indicated.

Moreover, and again assuming that the assistant coach never intended to adhere to the syllabus grading policy, the record demonstrates that he never conveyed to the class the basis on which grades in fact would be awarded or had a system in place to award grades consistent with any such grading policy. The assistant coach provided various descriptions of his grading policy in interviews and at the hearing. Among his descriptions of his grading policy was that students would receive grades of "A" for attending one practice and one game. In his March 3, 2003, interview he first unveiled a 425-point grading system where students would earn 25 points for each class, practice, and game attended and 25 points for the final examination. Even this statement of his grading system was further modified to indicate that students could earn all 425 points by attending a one-day clinic administered by the head coach for the men's basketball team. The record is very clear, however, that, with the exception of student-athletes 1, 2 and 3, the assistant coach had little or no basis for determining which, if any, students met which, if any, of his various descriptions of the course requirements.

Class Lecture Attendance. At the hearing the assistant coach reported that he was present for the first five classes and that thereafter there were no further classroom lecture sessions. Later he reported that there were 12 scheduled lecture periods and he attempted to have substitutes fill in for him. The assistant coach was asked whether he kept an attendance log so as to record the 25 points that students earned by attending class. Initially he reported that he took attendance only by scanning the class and making a mental note of who was there (despite the fact that he knew few of the students enrolled in the class and, presumably,

his class scanning also included the first class day when, in particular, he could not have identified most students in the class). The assistant coach also first reported that substitutes did not take attendance. He then said that substitutes did their best to take attendance but that it was hit or miss as they had no class roster from which to work. When asked if this hit-or-miss roll-taking inured to the benefit of the men's basketball players as the coaches would be more likely to recognize them than others in the class, the assistant coach claimed not.

Practice and Games. The assistant coach said that a student assistant to the basketball team hereafter, "the student assistant," kept a log of students who attended practice, but that the log was lost before grades were computed. (Note: the student assistant, who was also enrolled in the class, confirmed both that he kept a log and that it was lost.) The assistant coach said that loss of the log was inconsequential as he already knew each student's accumulated points. There were varying explanations from the students as to how the assistant coach monitored attendance at games. Once again, the assistant coach kept no records. (The committee noted that student-athletes 1, 2 and 3 were the only students in the class for whom there would be records for practice and game attendance.)

Syllabus. In his March 3, 2003, interview the assistant coach said that he created a syllabus and gave it to the department chair to review. However, in his September 25, 2003, interview, and again at the hearing, the assistant coach claimed that he created no syllabus and that the one he distributed to the class had been created by the PE professor and used by him when he taught the class.

The record contains additional examples of statements made by the assistant coach that are either inconsistent or directly contrary one to the other. For example, in his March 3, 2003, interview, the assistant coach described in this way his decision to teach the basketball coaching course: "I feel honored to teach. I enjoy teaching." However, on September 25, 2003, the assistant coach said, "First of all, I didn't want to teach the class." At the hearing, the following exchange took place:

**Committee Member 1:** When you weren't there, for September and half of October, how did they meet their class requirements or practice requirements?

**Assistant Coach:** I tried to have one of our other staff members be there. It was kind of a week-by-week thing. But, again, I explained that before the class ever got started.

**Committee Member 1:** That's fine, but what did you get in the way of feedback from the person who was filling in for you at practice? Did he or she question them, make notes? How would you know what was going on?

**Assistant Coach:** It was like any other substitute teacher that was taking over a class. Attendance was not taken.

**Committee Member 1:** You were gone. So, you didn't know what they were doing, if anything, in class.

**Assistant Coach:** That is true.

Later, the assistant coach said the following:

**Committee Member 1:** Tell me, coach, if I had gotten 350 points, what grade would I have gotten?

**Assistant Coach:** No one in my class got 350 points.

**Committee Member 1:** How do you know?

**Assistant Coach:** Because I had a regulated book that I kept tallies of.

**Committee Member 1:** You told me when you were away you had people covering for you and you didn't always have information from them.

**Assistant Coach:** I had it regulated. I had it regulated somewhat by people that were taking class. They would take the class by student – some members of our staff. They would do the best they can to calculate the points of people that were there when they had it. It was kind of a week-to-week basis.

**Committee Member 2:** Wait a minute now. The people who substituted for you gave points for the classes that the students attended?

**Assistant Coach.** They would do the best they can to regulate the class and tell me when I got back, leave notes on my desk.

Final Examination. The assistant coach was equally inconsistent in explaining the final examination and how points were awarded. (See Appendix Three for a copy of the final examination.) In his March 3, 2003, interview, the assistant coach was asked how a student earned an "A." The following exchange ensued:

**Assistant Coach.** 425 points to get an A in my course – no midterm, no final. How you obtained those points?

**Interviewer.** Slow down. 425 points.

**Assistant Coach.** 425 point to get an A. We did drills. We did practices. We did classroom. . You could earn an A by coming to class, bringing in a practice schedule, bringing in a game plan. I gave them opportunities to write up strategies of how to attack a game, offense, defense, different scenarios that we went over in class. And – or you can come to practice, sign in, take some notes. Every practice that you attended was 25 points.

**Interviewer.** Okay. So basically if the kids either came and participated at the Ramsey Center or after basketball practice started came and observed practice and coaching methods, then once they accumulated 425 points they got an A.

**Assistant Coach.** Right.

The university apparently relied on this interchange to conclude, in its self-report to the NCAA, that the assistant coach said he gave no final exam. (Note: The assistant coach was emphatic and insistent that in this interview he was never asked whether a final examination was part of the course requirements and that the university misstated facts when it reported him as saying he gave no final examination. The committee believed that it was at least not unreasonable for the university to have understood the assistant coach to have indicated that he gave no exam.) In his September 25 interview the assistant coach said: “(The department chair) gave me one directive. You need to give a final.” Notwithstanding this statement, and the syllabus, the assistant coach later claimed that he first learned he had to give an exam later in the semester and it was only then that he added an exam requirement. Once again notwithstanding the syllabus, the assistant coach in his statements described the final examination as “optional.” The assistant coach said that he did not know who took the final and that he did not read the exams but gave 25 points for taking it. When questioned how he could award 25 points for taking a final when he did not know who took it, the assistant coach then reported that he turned in course grades the week before the final examination was given and that, therefore, the examination did not factor into his grade computation. The following interchange occurred at the hearing on this point:

**Committee Member 2:** So, the final was not only optional, not read and not graded, but there were no points given for it if I came in and took it?

**Assistant Coach.** Correct.

**Committee Member 2:** Did the students in the class know that?

**Assistant Coach.** Sure.

At another point the assistant coach claimed that he told students that they need not take the final if they had accumulated enough points to earn an “A.” He was unable to explain how the students could make this determination since he had never shared the 425-point grading policy with them.

From the available information compiled by the NCAA enforcement staff, the university and the coaches' own counsel, it is clear that a large majority of students took the final exam. The committee believed it likely that they did this in reliance on the stated syllabus criteria. Moreover, even assuming that the grading policy was the 425-point system and that the assistant coach gave students the option of skipping the final if they had enough points, the committee noted that, without knowledge of the grading policy, students would have been unable to determine their class standing. In that event, as the committee further noted, students likely would have treated the final as a mandatory component of the final grade (as described in the syllabus) or at a minimum students seeking a high grade would have decided they needed to take the final. The committee found simply not believable the

assistant coach's statement that students (he estimated half the class) would take time during final examinations to participate in an examination that they knew would neither be read nor in any way count toward calculation of the final grade.

Taking the assistant coach at his word, he had no record of who took the final and at best hit-or-miss records of who attended class. As to attendance at practice, competition, or the all-day clinic, the assistant coach reported that any records that might have been kept were lost or discarded. The assistant coach claimed, however, that he kept in his head the accumulated points being earned by each of the 39 students.

With particular regard to class attendance and student-athlete 1, the assistant coach in his March 3, 2003, interview, said that student-athlete 1 came only to the first day of class and accumulated the rest of his 425 points by attendance at practice. In his September 25, 2003, interview, however, the assistant coach said he knew that student-athlete 1 attended the first five days of class. At the hearing, the assistant coach attributed the inconsistency in his statements to the fact that a year and a half had elapsed between the time he taught the course and when he was first interviewed about it. He offered no explanation why six months later, and two years after teaching the course, his memory had improved.

At the hearing the provost reported that student-athlete 1 (and student-athlete 3) enrolled in the class on August 21, 2001, five days after the start of the semester. Student-athlete 1 said that he never attended the class and only learned he had been enrolled when told so by the assistant coach at a basketball practice. The committee also noted that neither student-athlete 2 nor 3 recalled seeing student-athlete 1 in class at any time and that only one student reported seeing him in class after the first day. This student, however, also claimed to have seen student-athlete 1 (as well as student-athletes 2 and 3) at the final; even the assistant coach agrees that student-athlete 1 was not there.

Students-athletes 2 and 3 said that attending class was the only work they did particular to the class. Student-athlete 2 said he attended the first day of class and a "few" more while student-athlete 3 said he missed the first day of class but attended "some" classes. Both said they attended no class once basketball practice started in mid-October. Several students in the class, including student-athletes, were asked about the attendance of the basketball student-athletes. Most reported that they did not recall seeing either student-athlete 1 or 3 in class or at least not after the first day; a couple believed that student-athlete 2 attended the first one or two classes and one thought he was there for the first five or seven classes. None of the three student-athletes took the final exam.

The committee asked the university, the assistant coach, and the enforcement staff each to submit a table summarizing information they obtained from student interviews with regard

to their understanding of the grading system in the basketball coaching class, including any point system, and the administration of the final examination.

Not counting student-athletes 1, 2 and 3, a total of 25 of the 36 other students were interviewed, some more than once. The university conducted seven interviews; the enforcement staff, ten; and the coaches, 24. Not one of the 25 students described the grading policy in the basketball coaching class as involving a 425-point grading system. Moreover, while a few students were uncertain or could not remember whether they took the final, the committee found that only one of the 25 students said that he did not take the final. The committee also considered the later characterizations of the grading policy in the class, as provided by the assistant coach. First, the committee evaluated the assistant coach's last description of grading policy, the 425-point system. The committee noted that not only is there no document or course material that describes the 425-point grading system, but that the assistant coach reported that he kept the system "in his head" until he reported it to student-athletes 1 and 2, more than a year after the course ended. The committee both rejected the assistant coach's contention that he employed the 425-point system and concluded that, even if the grading system were actually employed, there still would be academic fraud. The assistant coach reported that attendance at class, practice, and game was worth 25 points each time. However, according to the assistant coach, classes after the first five either were not held or were held intermittently with other assistant coaches teaching them and, also according to the assistant coach, attendance for these classes either was not taken or was taken unsystematically. The assistant coach also reported that, while attendance logs were kept at practice, these logs were lost before he recorded class grades. There apparently was no system to record attendance at games. The committee concluded that in these circumstances the assistant coach could not have known how many points, if any, were earned by each student. In the end, the committee concluded that as the semester proceeded, the basketball coaching class was administered by the assistant coach in an increasingly haphazard fashion with little academic propriety. Even so, the evidence reflected that the three men's basketball student-athletes were the only students in the class who attended so few, if any, classes AND who neither took the final examination nor even knew that one was given.

While the varying and conflicting explanations proffered by the assistant coach lead to several versions of the course requirements for the class, the committee concluded that there was academic fraud no matter how described. If he is taken at his last word, then his description is academic fraud in that he described a sham course with no attendance requirements, no examinations, no information to students of his (425-point) grading policy, no reliable way to assess performance for purposes of awarding grades and no base of information from which to assure that all students were treated equally. Giving each student an "A," moreover, did not avoid the problem because those students who legitimately may

have earned an “A” under the policy had that grade diluted by the fact that all others also were awarded an “A.”

It should go without saying that if students do not understand the requirements for passing a class, then they cannot perform work calculated to pass it. In that situation it is only serendipity if they undertake activities that an instructor treats as relevant to class performance. It should also go without saying that if an instructor awards grades in a class when he has no basis on which to assess performance that too is academic misconduct. The committee does not disagree that within the purview of academic freedom is the choice not to require attendance, to grade on activities rather than written work, not to administer a final examination, to employ a lenient grading policy, or even to provide all students with an “A” because performance will be evaluated on minimum standards that all students will meet. The committee notes, however, that academic freedom is not academic license, and that an instructor who makes all these choices in combination at the very least creates the specter of academic misconduct. In addition, an optional attendance policy for students does not authorize an instructor repeatedly to skip class. Moreover, if the pedagogical decisions within a particular class are constrained by department or university policy, as was the case here, then the area of instructor choice is bounded by those additional requirements and it is academic misconduct to ignore them. Finally, it is academic misconduct to employ grading criteria, however minimal, that require all but three students to engage in activities additional to or different from how they otherwise would have used their time, particularly when the instructor has a special relationship with those three students that establishes a reason for the favored treatment. So too if an instructor changes course requirements without notice when those changed requirements inure to the benefit of a student cohort with whom he has a special relationship. Moreover, student-athletes 1 and 3 already were enrolled in a varsity basketball class, one that, according to university curricular policy, was not graded and worth only one credit. The net effect of the grading policy in the basketball coaching class, therefore, was not only to award credit twice for simply participating in varsity athletics, but to do so in direct contravention of the curricular choices made by the university.

The committee noted that at some point during the first month of class the associate director of athletics, hereafter “the associate athletics director,” spoke to the department chair and told him that she thought it was a conflict of interest for men’s basketball student-athletes to be enrolled in a graded course taught by their assistant coach. The associate athletics director also reported her concerns to the registrar and to senior athletics department administrators at an executive staff meeting. She reported that the department chair thought the enrollment was appropriate because he had been told by the assistant coach that the student-athletes had all expressed an interest in coaching after their playing days were over; that the registrar “didn’t think it was a good idea,” and that the conclusion at the staff meeting was that “basically, it was a little too late to do much.” She said that they knew that the assistant coach would not again be assigned to teach the class.



The committee was quite troubled that in light of the potential conflict, the department chair failed to provide careful and regular oversight. The result not only was NCAA violations but a class pedagogy that was unfair to students enrolled in the class who worked for their grades.

In reaching the conclusion that the assistant coach committed academic fraud, the committee found that the information provided by the university regarding course requirements and the circumstances by which the assistant coach became the instructor of the basketball coaching class were internally consistent and supported by documentary evidence. Conversely, the committee found that the assistant coach generally was not credible in the content of any particular explanation and, even more so, was not credible due to the conflicting and repeatedly changing information that he provided.

#### **Finding II-C-2**

Finding II-C-2 involved the assistant coach providing an extra benefit to student-athletes 1, 2 and 3 by the manner in which he administered the basketball course. The university and the enforcement staff are in substantial agreement on the facts and that an extra benefit was provided. The assistant coach provided no specific written response but maintained at the hearing that he treated the basketball student-athletes no differently than other students in the class, and, accordingly, provided no extra benefit to them. The committee concluded that extra benefits were provided to the student-athletes as they received academic credit for doing little or nothing more than that which already was required of them as members of the men's basketball team while every other student in the class necessarily engaged in activities additional to their normal routine because of their enrollment in the class.

As described in NCAA Bylaw 16.02.3, an extra benefit is a benefit not “generally available” to all students and that is provided to student-athletes because they are student-athletes. The clear weight of the evidence demonstrated that student-athlete 1 received an “A” in the basketball coaching class by doing no more for the class than that which already was required by virtue of his participation on the basketball team and that the only possible activities engaged in by student-athletes 2 and 3 that were additional to team participation were their attendance at a few classes, if that. Even were there students who attended no more classes than did the basketball players and otherwise engaged in precisely the same activities as they did, the student-athletes still received an extra benefit because the other students engaged in these other activities because of participation in the class while the basketball players received a “two-fer.” Further, the committee noted that the NCAA student-athlete reinstatement staff necessarily determined that the student-athletes received extra benefits (even though by that time their course credits and grades were withdrawn) when it acted to reinstate their eligibility.

### **Finding II-C-3**

Finding II-C-3 involves unethical conduct by the assistant coach through influencing student-athletes 2 and 3 to provide misleading statements about the grading policy in the basketball coaching class. The university and the enforcement staff are in substantial agreement on the facts and that they constitute unethical conduct. For the reasons set forth below, the committee found the violation as alleged.

As previously referenced, on February 27, 2003, ESPN broadcast a story about alleged violations within the Georgia men's basketball program, including academic fraud associated with the basketball coaching class. On March 3, 2003, the enforcement staff and university interviewed the assistant coach, student-athlete 3, and finally student-athlete 2. All of them described the grading system in the basketball coaching course as involving a point system. According to student-athlete 3, "You can attend class, get points, and I guess it was like a certain number of points, you know what I'm saying, to figure out what grade you're getting in class," while student-athlete 2 said "it was basically on a point scale, and he told me that you got 25 points for attending class and attending practice; and for an A it was like – I think it was like 450 – 50 points for an A in that class." When he was asked if he went to class once basketball practice began, he replied: "No. Because the way it was, you know, told you could earn points by going to basketball practice, so I had to be there anyway. I earn points by going to practice."

On Tuesday, March 4, the institution and the enforcement staff interviewed the student assistant, who was enrolled in the class, and on March 5 and 6, they interviewed three other students who had been enrolled. None of them described a point system or corroborated other descriptions by the assistant coach and the two student-athletes regarding aspects of the course structure and the final exam. As a result, the institution and the enforcement staff re-interviewed student-athletes 2 and 3.

At their second interviews, on Thursday, March 6, student-athletes 2 and 3 both reported that they did not know how grades were awarded in the basketball coaching class and they only heard of a point system when it was described to them on February 28, and March 3, 2003, by the assistant coach. Student-athlete 3 recalled the first conversation to have been in a telephone conversation initiated by the assistant coach that took place on Friday, February 28; student-athlete 2 said he spoke to the assistant coach on February 28 during a conversation that took place prior to practice, outside the Stegeman Coliseum with no one else present. He said the assistant coach told him: "Don't worry about anything. The class was based on a point system, and you, you've got your points." Student-athlete 2 said he also had a telephone conversation with the assistant coach on Saturday, March 1, during which the assistant coach elaborated on the 425-point system and again told him to not worry. Both student-athletes reported a subsequent conversation with the assistant coach on Monday, March 3, when they were pulled from practice by the head coach and told they

were going to be interviewed. Both said the head coach walked with them into the locker room and handed them a cell phone; the assistant coach was on the line. Student-athlete 3 said both of them spoke with the assistant coach, who told them "to make sure that we had everything straight, that we had an understanding of what to say, pretty much." Student-athlete 3 said the assistant coach "wanted to make sure that you had the story straight" and then told them "They might question you all about the class. You know, if they do, tell them that we had it set up on a point-based system where if you attended so many classes, then you got, I mean, not classes but practices and you got points for going to practice....It was like 25 points for a practice...Yes, it was like 450 points for an A." Student-athlete 2 reported the assistant coach saying "Don't worry about nothing, and everything will be straight." Student-athlete 2 said the assistant coach told him to tell the interviewers about the 425-point grading system. He said that following this telephone conversation, the head coach told him to stay calm and not to worry.

In addition to the March 3, 2003, interview with the university and enforcement staff, the assistant coach was interviewed by the enforcement staff on September 25 and October 29, 2003. In his September 25 interview the assistant coach confirmed that he spoke to both student-athletes by cell phone just after his March 3 interview and just after the young men had been pulled from practice. (Note: The interview with the assistant coach ended at 2:30 p.m.; student-athlete 3 said he spoke to the assistant coach at approximately 3:45 p.m.) According to the assistant coach, the head coach phoned him at home after his interview to tell him that student-athletes 2 and 3 were to be interviewed, that at first he had no idea why, and that he then called the head coach back to say he thought the interviews might be about the basketball coaching course. The assistant coach said that student-athletes 2 and 3 then called him and said they were "scared to death to go into an inquiry like this." The assistant coach said he told them: "First of all, tell the truth. There's nothing to hide. (Student-athlete 1) has no allegations that are truthful or will be corroborated. If they ask you about the class, tell them what you know, tell them the truth." The assistant coach continued: "So they call me in a panic. I don't really recall what I said, but I tried to help them as their coach as much as I possibly could. 'Tell them the truth. There were myriad ways to get an A, that you felt, you felt the requirement to get an A . . . .' And I don't know what the questions were they were going to ask, but I remember trying to help them sort out any kind of questions they might have been asked in relation to what I thought I was explaining in my transcript, which misused the words on March 3."

The assistant coach was then asked if he told the two student-athletes about a 425-point system and how they could have received an A. He responded: "I might have relayed that to them. Again, that was never laid out. That was a barometer that was in my head, a calculation of how to get it." Asked again if he talked to the student-athletes about the point system, he replied: "I might have. I probably did because I was trying to help them." The

assistant coach continued: "I tried to help (the student-athletes) as much as I possibly could. Did I explain the point system? I might have. There was no preferential treatment. They didn't commit academic fraud, they didn't do anything wrong." The assistant coach also reported that until he told the two student-athletes about the 425-point system on March 3, he had never told any of the students in his class about this point system but instead had kept it "in his head."

The head coach was interviewed on March 3 and October 29, 2003. He said that on March 3, as he was going to the team's 3:30 p.m. practice, the senior associate athletics director met him and told him that the investigators wanted to interview student-athletes 2 and 3. On this point, the head coach commented: "It was a very critical time in our season. You have to understand that. Very, very, very rude for them to do that at that time. Should have done it at the end of the season. . . Had you been sitting in that chair, you'd have been violently opposed to that."

As to whether the assistant coach spoke to the two student-athletes by cell phone prior to their interview, the head coach said: "Phones really don't work in the locker room. That may be true, but they really can't pick up much in there. I don't take my phone to practice, but that may have happened. I wouldn't discount that. I'm not trying to get around that." The head coach said the only thing he ever told the two student-athletes was "to tell the truth."

For several reasons the committee concluded that the assistant coach encouraged student-athletes 2 and 3 to provide misleading information. First, both student-athletes reported that the assistant coach talked to them on February 28, 2003, just subsequent to the ESPN broadcast concerning the basketball coaching class. Second, and as the assistant coach confirmed, the assistant coach spoke to both student-athletes on March 3, 2003, a little more than an hour after his interview and with knowledge that they were about to be interviewed. Third, he told them about a 425-point grading system that until that time he kept only "in his head." Fourth, both student-athletes reported that until their conversations with the assistant coach they had no knowledge of how they were graded and had never heard of any point system. Fifth, the assistant coach acknowledged he may have encouraged the student-athletes to tell the interviewers about the point system. Sixth, the committee found that the credibility of the assistant coach was suspect because of the myriad inconsistencies in the information he provided on a host of subjects. Seventh, when interviewed on March 3, the student-athletes proceeded to describe the point system, one they later admitted they knew nothing about until their phone conversation with the assistant coach.

**D. VIOLATIONS OF EXTRA BENEFIT LEGISLATION; FAILURE TO WITHHOLD INELIGIBLE STUDENT-ATHLETES FROM COMPETITION; FAILURE TO REPORT VIOLATIONS. [NCAA Constitution 2.8.1 and Bylaws 14.11.1 and 16.12.2.1]**

In November and December 2001, the university permitted six men's basketball student-athletes to receive extra benefits in that the young men did not pay for long-distance telephone calls they made while the team was competing away from home. The extra benefits totaled \$1,572.66 and were not reported to the NCAA until July 2003. In consequence, six student-athletes competed while ineligible.

Specifically, in November 2001, during a team trip to Massachusetts, student-athlete 1 made several personal long-distance telephone calls from the team hotel. The associate athletics trainer, hereafter "the associate trainer" – as well as members of the men's basketball coaching staff – learned of these calls after the institution paid the team hotel bill, including the student-athlete's long-distance charges. The associate trainer had student-athlete 1 repay the charges by deducting them from his later per diem payments over the course of several payments, but neither he nor any other staff member reported the violations to the university compliance director or to the NCAA.

During a December 2001 team trip to California four student-athletes placed personal long-distance calls from the team hotel. Because the team hotel bill was forwarded directly to the institution for payment, neither the associate trainer nor the coaching staff discovered the violations until later.

Finally, during a December 2001 team trip to Hawaii, the associate trainer discovered that six men's basketball student-athletes made personal long-distance telephone calls from their hotel rooms and informed the head coach. The head coach told the hotel staff that the institution would violate NCAA rules if it paid for the telephone calls. He also informed hotel staff that the student-athletes likely could not pay the phone charges and that the hotel should drop them. The hotel staff did not seek payment from the student-athletes. On returning from this trip, the associate trainer saw the California hotel long-distance charges incurred by the student-athletes and notified the head coach.

None of these extra benefits were reported to the NCAA until July 2003. As a result, six student-athletes competed while ineligible during the last part of the 2001-02 academic year and during the 2002-03 academic year. The details of the phone charges are provided in the following chart.

<b>Student-athlete</b>	<b>Monetary amount</b>	<b>Location of calls</b>
Student-athlete 4	\$31.46	Sheraton Hotel Waikiki in Hawaii
Student-athlete 5	\$3.89 \$62	Marriott Hotel in Woodland Hills, California Sheraton Hotel Waikiki in Hawaii
Student-athlete 1	\$17 \$420.07 \$529.73	Marriott Hotel in Springfield, Massachusetts Marriott Hotel in Woodland Hills, California Sheraton Hotel Waikiki in Hawaii
Student-athlete 6	\$74.01 \$411.77	Marriott Hotel in Woodland Hills, California Sheraton Hotel Waikiki in Hawaii
Student-athlete 7	\$10.44 \$450.86	Marriott Hotel in Woodland Hills, California Sheraton Hotel Waikiki in Hawaii
Student-athlete 8	\$95.85	Sheraton Hotel Waikiki in Hawaii

**Committee Rationale**

The university and enforcement staff were in substantial agreement as to the facts and that violations of NCAA legislation occurred. The committee found the violations as alleged. The committee noted that the written contract between the host hotel and the university stipulated that long-distance telephone access should be disconnected in student-athlete rooms. The committee further noted that the men's basketball staff routinely instructed hotel management to prevent long-distance access in student-athlete rooms.

The committee recognized that the violations set forth here initially occurred without the knowledge of the men's basketball staff and despite instructions intended to prevent their commission. Of concern to the committee, however was the failure of university staff to follow long-standing, well-understood, and routine NCAA process by reporting the violations and declaring the involved student-athletes ineligible and seeking reinstatement. Had the university taken such action when the violations first became known to the associate trainer and head coach, the student-athletes would have been withheld from competition and the reinstatement process initiated during the 2001-02 season.

The competitive advantage gained from not reporting was significant. The student-athletes who incurred the long-distance telephone bills were student-athlete 1 and five other student-athletes, hereafter student-athletes 4, 5, 6, 7 and 8, several of whom were all-conference performers. Except for student-athlete 1, moreover, the student-athletes also competed on the team during the 2002-03 season.

In September 2002 the Atlanta Journal Constitution reported the claim of student-athlete 1 that he had made unauthorized phone calls. Yet, even at this time, the university apparently failed to pursue the matter or to self-report at least the violation involving student-athlete 1. In fact, the university's self-report was not submitted until July 24, 2003. At that time, only two of the student-athletes still had eligibility remaining.

**IV. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS OR SELF-IMPOSED BY THE UNIVERSITY.**

The Committee on Infractions imposed additional penalties because of the involvement of Georgia in a number of the violations. The penalties imposed by the Committee on Infractions and self-imposed by the university were cited in III-A through III-P of the Committee on Infractions' report.

- A. The University of Georgia shall be publicly reprimanded and censured.
- B. The university shall be placed on four years of probation from April 17, 2004, (the hearing date).
- C. The committee would have imposed a one year post season ban in men's basketball but the university was credited with that penalty because it removed itself from postseason competition following the 2002-03 season.
- D. The institution shall reduce grants-in-aid in men's basketball by one during each of the 2005-06, 2006-07 and 2007-08 academic years. Under current rules, this limits the institution to 12 total grants in men's basketball during the three specified academic years.
- E. Pursuant to NCAA Bylaw 19.5.2.2-(e)-(2), the university will vacate wins as well as team and individual records of the six student-athletes who participated in men's basketball contests while ineligible during the 2001-02 and 2002-03 seasons as set forth in Findings II-A and II-D of this report. Further, the university's records regarding men's basketball as well as the record of the former head coach will be reconfigured to reflect the vacated records and so recorded in all publications in which men's basketball records for the 2001-02 and 2002-03 seasons are reported, including, but not limited to university media guides, internet website, recruiting material and university and NCAA archives. Finally, any public reference to tournament performances during this time shall be removed, including, but not limited to, athletics department stationery and banners displayed in public areas such as the arena in which the men's basketball team competes.

- F. The former assistant men's basketball coach will be informed in writing by the NCAA that, due to his involvement in certain violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during a seven-year period (April 17, 2004, to April 16, 2011), he and the involved institution shall be requested to appear before the Committee on Infractions to consider whether the member institution should be subject to the show-cause procedures of Bylaw 19.5.2.2-(l), which could limit the his athletically related duties at the new institution for a designated period.
- G. Because this case involved academic fraud, this report will be forwarded to the appropriate regional academic accrediting agency by the NCAA's president in accordance with Bylaw 19.5.2.7.
- H. The university suspended the former assistant men's basketball coach on February 28, 2003, pending the investigation and his contract was non-renewed on March 5, 2003. The committee noted that if the former assistant men's basketball coach were still employed at the institution, the university would have been required to show cause, in accordance with Bylaw 19.5.2.2-(l), why it should not be subject to additional penalties if it had failed to take appropriate disciplinary action against him.
- I. The university suspended the head men's basketball coach on March 10, 2003, pending the conclusion of the investigation. He resigned on March 27, 2003, and entered into a retirement agreement on that date.
- J. The men's basketball athletic trainer received a letter of reprimand from the university and will be required to undergo retraining on NCAA rules and procedures.
- K. The chair of the physical education and sports studies department received a letter of reprimand from the university.
- L. Two student-athletes were declared ineligible for competition until recertification by the NCAA; their academic credit was withdrawn for the basketball course taught by the assistant coach in which they were enrolled.
- M. The university either did not renew or terminated the employment contracts of the entire men's basketball coaching staff.



- N. During this period of probation, the institution shall:
1. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all university staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  2. Submit a preliminary report to the director of the NCAA Committees on Infractions by October 1 setting forth a schedule for establishing this compliance and educational program; and
  3. File with the committee's director annual compliance reports indicating the progress made with this program by April 15 of each year during the probationary period. Particular emphasis should be placed on staff instruction that all violations must be reported to the compliance director, that receipt of extra benefits results in ineligibility that may be restored only by application to student-athlete reinstatement, and that any coach participation in instructional programs, particularly graded programs, requires careful and regular monitoring by the appropriate academic officials. The reports also must include documentation of the university's compliance with the penalties (adopted and) imposed by the committee.
- O. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the university's current athletics policies and practices conform to all requirements of NCAA regulations.
- P. The university implemented one corrective action, including in the contract for the current head men's basketball coach greater responsibility for violations of NCAA rules by an assistant coach.

**V. ISSUES RAISED ON APPEAL.**

In its written appeal, Georgia contended that penalties III-B, III-D and III-E were excessive and inappropriate. In addition, the university asserted that portions of the narrative in support of finding of violation II-D were inaccurate and should be set aside.

## **VI. APPELLATE PROCEDURE.**

In considering Georgia's appeal, the Infractions Appeals Committee reviewed the Notice of Appeal; the transcript of the institution's April 17, 2004, hearing before the Committee on Infractions and the submissions by Georgia and the Committee on Infractions referred to in Section II of this report.

The hearing on the appeal was held by the Infractions Appeals Committee on March 25, 2005, in Chicago, Illinois. Georgia was present and was represented by its attorneys, president, director of athletics, faculty athletics representative, director of compliance and the university's director of legal affairs. The Committee on Infractions was represented by the appeal coordinators for the Committee on Infractions, two members of the Committee on Infractions and the acting director of the NCAA Infractions Committee. Also present were the vice president of enforcement services and a director of enforcement services. The hearing was conducted in accordance with procedures adopted by the committee pursuant to NCAA legislation.

## **VII. INFRACTIONS APPEALS COMMITTEE'S RESOLUTION OF THE ISSUES RAISED ON APPEAL.**

In reviewing the report in this case, the Infractions Appeals Committee may overturn a determination of fact or finding of violation by the Committee on Infractions only if:

- a. The committee's finding clearly is contrary to the evidence presented to the committee;
- b. The facts found by the committee do not constitute a violation of the Association's rules;  
or
- c. A procedural error affected the reliability of the information that was used to support the committee's finding. [Bylaw 32.10.2]

Elaborating on part (a) of the above standard, we have stated:

“A showing that there was some information that might have supported a contrary result will not be sufficient to warrant setting aside a finding nor will a showing that such information might have outweighed the information on which the committee based a finding. The Infractions Appeals Committee. . . will set aside a finding only on a showing that information might have

supported a contrary result clearly outweighed the information on which the Committee on Infractions based the finding. The Committee on Infractions determines the credibility of the evidence.” [University of Mississippi, Public Infractions Appeals Committee Report, page 8, May 1, 1995.]

A penalty imposed by the Committee on Infractions may be set aside on appeal if the penalty is “excessive or inappropriate based on all the evidence and circumstances.” [Bylaw 32.10.2]

Georgia appeals two of the sanctions imposed by the Committee on Infractions: (1) the four-year period of probation; and (2) the reduction in men's basketball grants-in-aid by one for each of the 2005-06, 2006-07 and 2007-08 academic years.

With respect to the four-year probation penalty, the university is a repeat violator and this case involved academic fraud, unethical conduct, extra benefits and recruiting inducements. In light of our prior decisions in cases involving similarly serious violations, a four-year period of probation is neither excessive nor inappropriate.

With respect to the grant-in-aid reductions, we note that the university's actions included the release of all five of the prospective student-athletes who had signed National Letters of Intent to attend the university starting in the fall 2003. Four of the five prospects took advantage of the university's actions and did not enroll at Georgia. In light of the recruiting cycle in men's basketball, the university was not in a position to find equally qualified prospects to replace the four who left. As a result, during the 2003-04 academic year Georgia had only seven men's basketball student-athletes on scholarship. Thus, the university's decision in spring 2003 to release the prospects constituted a powerful self-imposed penalty that seriously affected its men's basketball program. The Committee on Infractions report did not acknowledge this significant action by the university. We find the Committee on Infractions' grant-in-aid reduction is inappropriate and we vacate that portion of the penalty.

The university also asked the Infractions Appeals Committee to amend part of the narrative that accompanied the Committee on Infractions' Finding II-D which related to the timing (July 2003) of its self-report of the telephone call violations. This matter has no impact on the substantive findings made by the Committee on Infractions. Thus, we decline to act on this request. We note, however, that the Committee on Infractions has stated that it is not opposed to the following amendment: “In fact, the university did not report the violation to the NCAA until March 2003, following the ESPN broadcast.” (Committee on Infractions Response page 12.)

### **VIII. CONCLUSION.**

We reverse the imposition of a reduction in grants-in-aid in men's basketball by one during each of the 2005-06, 2006-07 and 2007-08 academic years as imposed by Penalty III-D.

NCAA Infraction Appeals Committee

Terry Don Phillips, chair  
Christopher L. Griffin  
William P. Hoye  
Noel M. Ragsdale  
Allan A. Ryan Jr

# Exhibit 3



## Student-Athlete Reinstatement and Secondary Infraction Case Report

**SA Reinstatement Case ID:** 36609  
**Secondary Case ID:** 45083  
**Verbal SA Reinstatement Decision Date:** September 3, 2010 **Verbal Secondary Decision Date:** October 18, 2010  
**Division:** I  
**Sport(s):** Football  
**Bylaw(s):** 12.1.2.1.6 Preferential Treatment, Benefits or Services.  
**Secondary Appeal:** No  
**SA Reinstatement Appeal:** No

### Facts:

During May 2010, recruited fourth-year football student-athlete (SA) received impermissible benefits including personal training and a t-shirt (\$375 total) at no charge. Specifically, SA was in California May 1 through 10, 2010, with his roommate to visit former roommate. All three individuals stayed with former roommate's family and SA mentioned he needed to work out while on vacation. Former roommate's father told SA he had a place down the road they could use to work out as the family had been members of facility for many years. SA, SA's roommate and SA's former roommate went to work out at training facility on three occasions for approximately 45 minutes each day. SA stated on one occasion SA, SA's roommate and SA's former roommate worked out with a personal trainer. Training sessions and use of facility were valued at \$120 per day (\$360 total for three days). SA received a t-shirt from training facility valued at \$15. The total amount of impermissible benefits received was \$375. SA stated he did not ask about fees for using training facility given former roommate's father arranged for SA to use facility and former roommate used facility while in high school. Trainer stated former roommate and family were friends of facility owner and they did not charge SA or SA's roommate for use of facility given it was their policy not to charge friends of any clients who came in only for a few workouts. Violation was discovered when compliance office at institution received phone call from known agent who overheard a conversation between SA and other staff campers at quarterback and receivers camp discussing SA's training activities in California.

### Additional Facts:

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### Institutional Action:

Institution required SA to repay amount of impermissible benefits received (\$375) to a charity of his choice.

### Enforcement Action:

Secondary violation; no further action.

### Eligibility:

STAFF: Eligibility reinstated based on institution's action requiring SA to repay amount of impermissible benefits received (\$375).

### Rationale:

STAFF: Based on case precedent and the totality of the circumstances, staff did not impose a withholding condition. Specifically, staff provided relief from NCAA Division I Committee on Student-Athlete Reinstatement guidelines which indicate a 20-percent withholding condition as a starting point. In providing relief, staff noted several factors including: (1) SA went to training facility while on vacation visiting former roommate and former roommate's family; (2) SA had a previous relationship with former roommate who had worked out at facility while in high school; (3) trainer at facility stated it was policy of training facility not to charge guests of members of facility who used facility on only a few occasions; and (4) SA did not have a reasonable expectation to pay for training as father of former roommate arranged workouts.

### Legislation:

12.1.2.1.6 Preferential Treatment, Benefits or Services.



## Student-Athlete Reinstatement and Secondary Infraction Case Report

Preferential treatment, benefits or services because of the individual's athletics reputation or skill or pay-back potential as a professional athlete, unless such treatment, benefits or services are specifically permitted under NCAA legislation. **[R]** (*Revised: 1/11/94, 1/14/08*)

# Exhibit 4





## Student-Athlete Reinstatement and Secondary Infraction Case Report

**SA Reinstatement Case ID:** 36701  
**Secondary Case ID:** 0  
**Verbal SA Reinstatement Decision Date:** September 17, 2010      **Verbal Secondary Decision Date:**  
**Division:** I  
**Sport(s):** Football  
**Bylaw(s):** 12.1.2.1.6 Preferential Treatment, Benefits or Services.  
12.3.1.2 Benefits from Prospective Agents.  
16.11.2.1 General Rule.  
**Secondary Appeal:** No  
**SA Reinstatement Appeal:** No

### Facts:

As part of an on-going investigation in sport of football, institution is reporting several violations valued at \$586.94 by a fourth year, recruited football student-athlete (SA) involving preferential treatment through provision of travel, meals and lodging from two former football SAs, benefits from an individual (triggering NCAA definition of a prospective agent) in form of meals, transportation, entertainment and lodging and receipt of impermissible extra benefits from a former tutor considered a representative of athletics interests.

Specific to preferential treatment violation, SA and teammate traveled to Atlanta, Georgia, May 2010 to attend a party with an individual (meeting NCAA definition of a prospective agent as identified later in this request) in a vehicle rented (\$70) by roommate of individual (meeting NCAA definition of a prospective agent). SA received local transportation (\$5) and stayed with a former football SA (2002-06) who was a friend and former teammate of prospective agent (\$16.94), all of which triggered preferential treatment violations. Given value of preferential treatment violation is \$100 or less, institution is requiring repayment.

Specific to benefits from prospective agents violation, this individual is a former football SA (2001-04) who lives in institution's local community in home of another former SA (2000-03) who is also an NFL player. SA initially met agent, when he enrolled at applicant institution 2007 summer term. Given prospective agent drove SA to Atlanta with another SA and arranged the trip, lodging (\$16.94) and rental car (\$70), these benefits are also considered benefits from a prospective agent.

SA stated he is aware of NCAA regulations related to provision of benefits by agents and that involved agent in this case does not serve in any sort of managerial role for SA nor did involved agent represent himself to SA in same manner he has done with other SAs.

Specific to impermissible extra benefit violation, during time period from August 25, 2009, to July 23, 2010, SA received academic tutoring assistance at no charge from a former mentor/tutor in academic support program for SAs at institution. Tutor was employed from August 16, 2007, through July 29, 2009, and was assigned as either a mentor or tutor to 25 football SAs. During this time, institution noted tutor developed solid tutoring relationships and friendships with SAs. SA had formal tutoring sessions with tutor during fall 2007, spring 2008, fall 2008, spring 2009, and summer I and II 2009 terms. Following summer 2009, tutor's employment was terminated given she graduated May 2009. Institution stated that given existing friendships, some SAs continued to seek academic assistance from tutor. Director of academic support program and assistant athletics director for certification and eligibility informed tutor in writing September 2009, she should not continue to assist any SAs with their academics; however, SAs were not given same direction. SA did not believe it was impermissible to receive academic assistance from tutor free of charge given she was a friend and she worked with academic support program for SAs and was knowledgeable of the rules for providing permissible academic assistance. Institution valued impermissible tutoring benefit at \$495 (\$11/hour for 45 hours).



**Additional Facts:**

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**Institutional Action:**

Institution will require SA to repay amount of impermissible benefit received in amount of \$586.94.

**Enforcement Action:**

This case is being forwarded to the enforcement staff for further review.

**Eligibility:**

STAFF: Eligibility reinstated with condition SA be withheld from next regularly scheduled football contest when otherwise eligible and repayment of impermissible benefit received in amount of \$586.94 to a charity of SA's choice. The contest must be among those used for consideration for team selection for NCAA championship.

**Rationale:**

STAFF: Based on NCAA Division I Committee on Student-Athlete Reinstatement guidelines involving benefits from prospective agents. The committee's guidelines specific to benefits from prospective agent reflect a minimum withholding condition of 10 percent given the serious nature of the violation, with consideration given to the value of benefit received, SA's awareness of the prospective agent's status and SA's involvement in obtaining the benefit.

Based on the totality of the circumstances and case precedent involving impermissible tutoring extra benefit, staff provided relief from 20 percent withholding condition in this case. Specifically, staff noted the following factors, in part, when providing relief from withholding: (1) nature of benefit provided was permissible academic assistance given institution is not reporting academic fraud violation with SA; (2) awareness on part of institutional personnel of tutor's relationship with SA extending beyond that appropriate to serve as a tutor; (3) SA's previous receipt of permissible tutoring and monitoring from former tutor; and (4) lack of communication and education by former tutor or other institutional personnel to SA regarding interaction with former tutor following 2009 summer term.

**Legislation:**

12.1.2.1.6 Preferential Treatment, Benefits or Services.

Preferential treatment, benefits or services because of the individual's athletics reputation or skill or pay-back potential as a professional athlete, unless such treatment, benefits or services are specifically permitted under NCAA legislation. **[R]** (*Revised: 1/11/94, 1/14/08*)

12.3.1.2 Benefits from Prospective Agents.

An individual shall be ineligible per Bylaw 12.3.1 if he or she (or his or her relatives or friends) accepts transportation or other benefits from: (*Revised: 1/14/97*)

- (a) Any person who represents any individual in the marketing of his or her athletics ability. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general; or
- (b) An agent, even if the agent has indicated that he or she has no interest in representing the student-athlete in the marketing of his or her athletics ability or reputation and does not represent individuals in the student-athlete's sport. (*Adopted: 1/14/97*)

16.11.2.1 General Rule.

The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-athlete or his or her relatives or friends with a benefit not expressly authorized by NCAA legislation. **[R]**

# Exhibit 5



**“This report does not reflect the decisions made by the NCAA Division I Infractions Appeals Committee relative to this case. For a full explanation of the Infractions Appeals Committee’s decision, see the appeals committee’s report linked in on this case’s webpage.”**

**TEXAS A&M UNIVERSITY – CORPUS CHRISTI**  
**PUBLIC INFRACTIONS REPORT**  
**MARCH 25, 2009**

**A. INTRODUCTION.**

On December 5, 2008, officials from Texas A&M University-Corpus Christi, the Southland Conference, a former director of athletics ("former director of athletics") along with his legal counsel and a former director of compliance ("former compliance director"), appeared before the NCAA Division I Committee on Infractions to address allegations of violations in the institution's athletics program. The violations in this case centered on two international student-athletes (one in women's volleyball, one in men's tennis) and an international prospect in men's basketball who were involved in several categories of NCAA violations including ineligible participation and receipt of recruiting inducements. There were additional, unrelated recruiting violations in the men's basketball program resulting from impermissible telephone calls. The most serious violations, however, involved decisions made by institutional personnel, including the former director of athletics, not to report NCAA violations. This failure to report violations contributed to a lack of institutional control finding as well as unethical conduct findings against the institutional staff members who decided not to report the violations.

The committee noted that the institution reinstated intercollegiate athletics in 1998. During the 1998-99 academic year the institution competed as a provisional Divisional I member in three sports; men's and women's tennis and women's golf. Over the next three years, 11 sports were added for a total of 14 sports currently sponsored by the institution. Texas A&M–Corpus Christi did not gain full NCAA Division I membership until the 2004-05 academic year and was not admitted to a conference as a full member until the summer of 2006, when it joined the Southland Conference.

The rapid expansion in sports sponsorship at the institution during the early 2000s, combined with the increasingly complex requirements attendant with full Division I membership, should serve as a warning to institutions seeking a "fast track" to Division I affiliation. There must be a heightened sense of awareness with respect to compliance

education as well as violation detection and reporting. In this case, Texas A&M–Corpus Christi failed to take those steps, resulting in the infractions documented in this report.

As explained in greater detail in the lack of institutional control finding, the roots of the institution's troubles can be traced to four shortcomings which contributed to a culture of noncompliance at the institution. First, the institution did not establish adequate systems of policies and procedures to ensure compliance with NCAA regulations. This was due, in large part, to the institution's failure to devote the necessary resources for an effective Division I compliance program. Second, the institution failed to monitor and evaluate its athletics program to detect or deter instances of NCAA violations. Third, the institution failed to provide adequate NCAA rules education to institutional staff members. Fourth, and most troubling, institution officials decided not to investigate and report information relating to NCAA rules violations. The decision not to report information appeared to be based on concern that, if major violations were reported, it could cast the institution and its administration in a negative light while also jeopardizing its recent acceptance as a member of a Division I conference.

As stated earlier in this report, Texas A&M–Corpus Christi is a member of the Southland Conference. The institution has an enrollment of approximately 8,600 students and sponsors six men's and eight women's intercollegiate sports. This is the institution's first major infractions case.

## **B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **1. INELIGIBLE COMPETITION. [NCAA Bylaws 14.01.1, 14.2.1 and 14.2.1.1]**

During the 2005-06 academic year, the institution permitted a women's volleyball student-athlete ("student-athlete 1") to represent the institution in intercollegiate volleyball competition during the sixth year following her initial full-time enrollment at a collegiate institution, a year beyond the permissible five-year period of eligibility.

#### **Committee Rationale**

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that those facts constitute violations of NCAA legislation. The committee finds that the violations occurred.

Student-athlete 1 was an international student-athlete enrolled in a full-time academic program in a four-year collegiate institution in her native country from 2000 until 2002. Subsequently, in the fall of 2002, student-athlete 1 enrolled in a full-time academic

program at a two-year collegiate institution in the United States, where she remained for the 2002-03 and 2003-04 academic years. Student-athlete 1 then enrolled in a full-time academic program at Texas A&M–Corpus Christi in the fall of 2004, and represented the institution in intercollegiate women's volleyball competition during the 2004-05 and 2005-06 academic years. Upon student-athlete 1's initial enrollment at the institution in the fall of 2004, student-athlete 1 disclosed all of her previous collegiate enrollment to the former head women's volleyball coach ("former head women's volleyball coach"). In addition, student-athlete 1's international collegiate enrollment was included on her two-year institution's academic transcript. Student-athlete 1 disclosed her previous international collegiate enrollment on her 2004-05 NCAA General Amateurism and Eligibility Form for International and Select Student-Athletes (NCAA Form 04-10a), and her application for admission to the institution. Even though student-athlete 1 disclosed this information, the institution certified student-athlete 1 as a two-year college transfer with no other collegiate enrollment; and as a result, student-athlete 1 represented the institution in intercollegiate volleyball competition during the 2005-06 academic year, one year after her eligibility had expired.

The erroneous certification and student-athlete 1's competition while ineligible is a component of the lack of institutional control finding set forth in Finding B-7.

**2. VIOLATIONS OF FINANCIAL AID AND ELIGIBILITY LEGISLATION; EXTRA BENEFITS. [NCAA Bylaws 14.01.1, 14.3.1, 14.3.2.2.1 (2003-04 and 2004-05 NCAA Manuals), 14.3.2.3 (2003-04 and 2004-05 NCAA Manuals), 14.11.1, 15.01.5, 15.3.1.1 and 16.8.1.2]**

During the spring and fall of 2004, the institution provided a former men's tennis student-athlete ("student-athlete 2") impermissible athletically related financial aid at the time the young man was a nonqualifier and was fulfilling a year of residence at the institution. Additionally, during the spring and fall of 2004, the institution permitted student-athlete 2 to serve as a manager for the men's tennis program even though he was a nonqualifier and not eligible to serve in this capacity. Finally, during the spring of 2005, the institution became aware that student-athlete 2 had both received improper athletics aid and performed impermissible managerial duties but failed to declare the young man ineligible. The institution permitted him to continue to represent the institution in intercollegiate tennis competition and receive travel expenses while ineligible during the spring of 2005 and the 2005-06 and 2006-07 academic years. Specifically:

- a. During the spring of 2004, the institution authorized a scholarship in the amount of \$1,000 of athletically related financial aid for student-athlete 2

even though the young man was a nonqualifier while fulfilling a year of residence at the institution. Similarly, during the fall of 2004, the institution provided a scholarship in the amount of \$500 of athletically related financial aid for student-athlete 2.

- b. During the spring and fall of 2004, the institution permitted student-athlete 2 to attend men's tennis practice sessions and serve as a manager even though he was a nonqualifier and not eligible to serve in this capacity.
- c. During the spring or fall of 2005, the former compliance director discovered that student-athlete 2 had received athletics aid as a nonqualifier and performed impermissible managerial duties. The former compliance director informed two institutional administrators and the head men's tennis coach of the apparent violations. However, the institution failed to declare student-athlete 2 ineligible; it permitted him to continue to represent the institution in intercollegiate athletics competition and receive travel expenses during the spring of 2005 and the 2005-06 and 2006-07 academic years. In addition, in the fall of 2007, the former compliance director informed the former director of athletics of the violations involving student-athlete 2. No one in the athletics department reported the violations to the Southland Conference office or the NCAA enforcement staff.

### **Committee Rationale**

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that those facts constitute violations of NCAA legislation. The committee finds that the violations occurred.

As background, student-athlete 2 is an international student. In the summer of 2003 he began corresponding via e-mail with the institution's former head men's tennis coach ("former head men's tennis coach") about the possibility of attending the institution. Although he was a non-qualifier, student-athlete 2 moved to Corpus Christi in the late summer of 2003. As stated in the finding, student-athlete 2 had to serve a year of residency at the institution before being eligible to compete in intercollegiate tennis. He ultimately enrolled at the institution in January 2004 and received the impermissible financial aid set forth in the finding. With regard to the scholarship monies he received for the 2004 spring semester, student-athlete 2 explained that the former head men's tennis coach told him the institution "found a way" to provide him a scholarship for that term. Texas Education Code 54.064 specifies that the receipt of at least \$1,000 in institutional aid from a state institution triggers in-state tuition for out-of-state students.

Therefore, student-athlete 2's receipt of the spring 2004 scholarship allowed him to pay in-state tuition, thereby increasing the value of the benefit significantly.

**3. IMPERMISSIBLE TELEPHONE CONTACTS. [NCAA Bylaw 13.1.3.1.2]**

From August 2007 through February 2008, an assistant men's basketball coach ("assistant coach") placed at least 92 impermissible telephone calls to four two-year prospective student-athletes. Specifically, the assistant coach made the following impermissible telephone calls after he had already made a permissible call to that individual during that week (one call per week permitted to a two-year college prospective student-athlete):

- a. From September through October 2007, the assistant coach placed three impermissible phone calls to a prospective men's basketball student-athlete.
- b. From August 2007 through February 2008, the assistant coach placed 44 impermissible phone calls to a second prospective men's basketball student-athlete.
- c. From August 2007 through February 2008, the assistant coach placed 42 impermissible phone calls to a third prospective men's basketball student-athlete.
- d. From August through September 2007, the assistant coach placed three impermissible phone calls to a fourth prospective men's basketball student-athlete.

**Committee Rationale**

The enforcement staff and institution are in substantial agreement as to the facts of this finding and that those facts constitute violations of NCAA legislation. The committee finds that the violations occurred.

The assistant coach contended that he misunderstood NCAA legislation applicable to recruiting calls to two-year college prospects. The assistant coach said he thought coaches could make two calls per week to two-year prospects in their second year. NCAA Bylaw 13.1.3.1.2 allows two weekly calls to high school prospects, but the weekly limit for two-year prospects is one. The committee noted that the assistant coach



reported that he did not recall receiving any rules education from administrators at the institution from his hiring in 2007 until May 14, 2008, when he was interviewed by the enforcement staff. He said he became familiar with NCAA legislation only through taking practice tests for the NCAA Coaches' Certification Exam and by occasionally talking with the compliance office as questions arose.

**4. RECRUITING INDUCEMENTS. [NCAA Bylaws 13.2.1, 13.2.2-(h) and 13.5.1 ]**

During the course of a 10-day period in the spring semester of 2008, the institution provided a prospective men's basketball student-athlete ("prospect 1") a four-year college transfer and an international student-athlete, with various impermissible recruiting inducements. These inducements included cost-free lodging and transportation, while the prospect resided in the locale of the institution and attempted to enroll at the institution. Specifically:

- a. During the period January 29, through February 7, 2008, the men's basketball coaching staff permitted prospect 1 to live in an on-campus apartment occupied by three men's basketball student-athletes at no cost to the young man.
- b. On January 31, 2008, at the direction of the former compliance director, two individuals (the athletics department's secretary and a graduate assistant) provided prospect 1 round-trip automobile transportation between the on-campus apartment in which he resided and Laredo, Texas (a distance of approximately 280 miles round trip). This was to facilitate prospect 1 departing and re-entering the United States in an attempt to renew expired U.S. Department of Homeland Security papers relating to his student visa (I-20 form).
- c. During the 10-day period, on several occasions, prospect 1 was provided impermissible local transportation by two men's basketball student-athletes and the associate head men's basketball coach ("associate head coach").
- d. On February 7, 2008, the associate head coach provided prospect 1 with local automobile transportation from the on-campus apartment in which he was temporarily residing to the Corpus Christi bus station in order for the young man to return to Canada, his native country.

**Committee Rationale**

The enforcement staff, the institution and involved parties are in substantial agreement as to the facts of this finding and that those facts constitute violations of NCAA legislation. The committee finds that the violations occurred. Finding B-4(b) is a component of the unethical conduct finding made against the former compliance director as set forth in Finding B-6.

As background, prospect 1 attended high school in the Chicago, Illinois area. He was a basketball student-athlete at a four-year institution located in Chicago from the fall of 2006 until he departed that institution in November 2007 due to a disciplinary matter. After leaving the four-year institution, prospect 1 remained in the Chicago area and lived with his uncle. The associate head coach reported that, following the institution's November 28, 2007, game against the four-year institution, prospect 1's high school coach told him (the associate head coach) that prospect 1 was looking to enroll at another institution. The associate head coach added that prospect 1's high school coach was acquainted with the institution's head men's basketball coach. The head basketball coach recalled that prospect 1's high school coach contacted him and asked him if he would "take" prospect 1. On January 16, 2008, the four-year institution administrators granted permission for the institution to contact prospect 1. It appeared that the basketball staff intended for prospect 1 to enroll in the second semester of the 2007-08 academic year. Although he had been accepted to the institution, prospect 1 left Corpus Christi on February 7, without enrolling, due to difficulties in renewing his student visa.

## **5. UNETHICAL CONDUCT. [NCAA Bylaws 10.01.1 and 10.1]**

The former director of athletics failed to report himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics. This is due to his decision not to report the violations set forth in Finding B-1 to the Southland Conference office or NCAA enforcement staff in the summer of 2006, when he was first made aware of the violations.

### **Committee Rationale**

The enforcement staff and the institution were in substantial agreement as to the facts of this finding. The former director of athletics disagreed that he violated NCAA Bylaws 10.01.1 and 10.1. Rather, he contended that the decision not to self-report the ineligible competition of student-athlete 1 constitutes a lack of institutional control under Bylaw 2.8.1. The committee finds that the former director of athletics violated ethical conduct legislation.

As background, in the spring of 2006, student-athlete 1 took steps to transfer 93 academic credit hours earned at the college she attended in her home country from 2000 to 2002. Shortly after this occurred, an academic coordinator noticed the transfer of credit hours to student-athlete 1's transcript and notified the former compliance director. Upon reviewing the material surrounding this transfer of credits, the former compliance director realized that due to student-athlete 1's enrollment start date at the college she attended in her home country, the institution had permitted student-athlete 1 to compete during a sixth year of eligibility, a year beyond the five-year period of eligibility permitted under NCAA legislation. The former compliance director then reported the information to an associate director of athletics ("former associate director of athletics"), who was serving as the interim director of athletics while the institution searched for a permanent director of athletics. The former compliance director and the former associate director of athletics then interviewed student-athlete 1. After the interview, the former compliance director and the former associate director of athletics decided not to conduct any further investigation until a new director of athletics was hired.

The former compliance director and the former associate director of athletics brought the situation involving student-athlete 1 to the attention of the incoming (now former) director of athletics in a July 2006 meeting. This meeting took place about two-to-three weeks after he began his duties at the institution. During this meeting, no recommendation on how to proceed with this matter was suggested to the former director of athletics. Following this meeting, the former director of athletics told the former compliance director and the former associate director of athletics to gather all the information pertaining to the issue involving student-athlete 1 in preparation for a meeting with the institution's president.

Approximately a week later, the former director of athletics, the former compliance director and the former associate director of athletics met with the president. The former director of athletics reported he began the meeting by telling the president there was a volleyball issue which could have NCAA "issues tied to it." During the meeting, the former compliance director explained the details of the violation, characterized it as "serious," and suggested the following three options: 1) report the violation to the conference and the NCAA; 2) ignore the violation and do nothing and 3) "make it go away." The option of "making it to go away" was suggested based on a concern that the violation might be discovered by institution system auditors at some future time. This option implied that that documentation and computer records relating to the violation would be deleted. Both the former director of athletics and the president stated that the option of "making it go away" was unacceptable. However, the former director of athletics stated he was thinking that "nobody wants negative attention coming to their institution."

The former director of athletics reported that a solution for addressing the situation was not agreed upon while the four individuals were in the president's office. After a time, the president dismissed the former compliance director and the former associate director of athletics from the meeting, but asked that the former director of athletics remain for additional discussion. During this private meeting, the president asked the former director of athletics what he wanted to do and said he would support the former director of athletics' decision. The president also told the former director of athletics to document the matter and be certain he "got all the information." The former director of athletics said that he told the president words to the effect: "Let's play this thing out and see what happens." He said he also assured the president that the issue would be handled within the athletics department and would not happen again.

There was disagreement between the former director of athletics and the institution's president with respect to what, exactly, the president said to the former director of athletics during their private meeting relative to reporting the violation to the conference office and/or the NCAA. According to the former director of athletics, the president equivocated in making a decision on reporting the violation. The former director of athletics said that, as a result of the president's indecision, he told the president he was not going to self-report the violation and the president supported this approach to the issue. The president, on the other hand, said that the information he received from the three staff members was not clear with respect to whether a NCAA violation had actually occurred. The president reported that the term used was "possible violation." Nonetheless, the president maintained that he instructed the former director of athletics to report the information if he (the former director of athletics) believed that a violation, in fact, had occurred.

During a March 5, 2008, interview with the enforcement staff, the former director of athletics was asked about his November 12, 2007, interview with a system auditor from the institution. The November interview occurred shortly after the violation had been uncovered. During the November interview, the former director of athletics was questioned about the discussion which occurred between the president and the former director of athletics relative to reporting the violation involving student-athlete 1. The following exchange occurred with regard to what the former director of athletics recalled from his July 2006 meeting with the president, as he reported in his November 12, 2007, interview:

**ENFORCEMENT STAFF:** ...you indicated that the president told you to do the right thing, but do it in a way that minimized any negative attention to the institution. Do you recall that happening?

**FORMER DIRECTOR OF ATHLETICS:** Um, yeah. I mean I, I remember him saying you know, "I trust your judgment...I trust the decision you'll make, and, and it's

just, you know, hopefully this won't cause any harm to us or whatever, but you know, he never instructed me to do anything. Nothing unethical.

The former director of athletics reported that, after he left the president's office following their private meeting, he called the former compliance director and the former associate director of athletics into his office and told them it was, "Business as usual... Let's just move on. Move forward." The former director of athletics recalled, "We didn't make a big deal out of it". "But I don't know what kind of investigation could have been done." He continued that he thought he also told the former compliance director that the issue might need to be dealt with later but that he made it clear, "for now, let's just move on." During the infractions hearing, the former director of athletics' legal counsel ("legal counsel") made the following remarks and answered questions from the committee in the following exchange:

**LEGAL COUNSEL:** (The former director of athletics) is ashamed of his role in the failure to report this violation. He recognizes that he should have recommended that the violation be reported. He is sorry for his mistake and he is not here today to offer excuses, but that is not to say that he should take all of the blame for this failure.

**COMMITTEE MEMBER:** Maybe I misunderstood what you said. In substance, I think it is in the report as well, are you saying that the (former director of athletics) suggested that let's just "ride with it" and see if he finds out, if anyone finds out...?

**LEGAL COUNSEL:** I want to make sure I understand your question. Are you saying that (the former director of athletics) said "let's just move forward and see what happens?"

**COMMITTEE MEMBER:** A point of view.

**LEGAL COUNSEL:** Yes.

**COMMITTEE MEMBER:** I understand your argument that you think (the institution's president) should have done something else, but you are sitting next to the (former director of athletics). Shouldn't he have said, "Doctor, we have to be proactive, we have to report this, we have to not move forward, we have to go to the NCAA?"

**LEGAL COUNSEL:** You are absolutely right.

**COMMITTEE CHAIRMAN:** But that did not occur; is that correct?

**LEGAL COUNSEL:** That did not occur.

Later during the hearing, related exchanges occurred;

**COMMITTEE MEMBER:** Well, what I am trying to get my hands around is this concept of "moving forward." Do I understand you to mean when you said we can just move forward that will put this out of your mind, that it probably won't be discovered and we will work on other things, it will just go away? Did you suggest ignoring it..?

**FORMER DIRECTOR OF ATHLETICS:** Yes...

**COMMITTEE MEMBER:** Just a quick follow-up. I guess the question what seemed to be said was nobody wanted to destroy the evidence and "make it go away." But people were comfortable with "moving forward." I am just wondering why people thought -- did people think there would have been an ethical issue if you made it go away versus doing nothing?

**FORMER DIRECTOR OF ATHLETICS:** I don't know how to answer that. It wasn't the right decision. That's what I do know. It wasn't the right decision. It was the one I made, and I am sorry for that.

The former director of athletics' July 3, 2006, employment contract with the institution directed him to: (1) "adhere to the letter and spirit of the rules and regulations set forth by the NCAA and the Southland Conference"; (2) "monitor compliance by Texas A&M-Corpus Christi with all applicable governing constitutions, by-laws, rules and regulations of the Southland Conference and NCAA and cooperate fully with the Texas A&M-Corpus Christi compliance officer to assure compliance and **deal affirmatively with non-compliance where discovered**" (emphasis added); and (3) not "knowingly engage in, support, or tolerate any action violative of any governing constitution, by-law, rules, regulation, policy, of the Southland Conference, the NCAA, Texas A&M-Corpus Christi, or The Texas A&M University System."

By not reporting the violation involving student-athlete 1, the former director of athletics failed to honor the ethical standards and obligations set out in his contract. Moreover, regardless of what exactly the president said relative to reporting the violation, no one reported that the president instructed the former director of athletics NOT to report the violation. Even if the president had done so, the Association expects those in leadership positions on its member campuses to act appropriately and report NCAA violations. This was articulated by the committee in the Jacksonville University Infractions Report (Infractions Report No. 187, August 30, 2001). In the Jacksonville case, unlike the current case, the president of that institution instructed the director of athletics not to report violations. Nonetheless, the committee wrote the following:

The committee recognized that the former director of athletics had an affirmative obligation under NCAA legislation to 'go above the president's head' and report his knowledge of possible NCAA violations directly to either the conference office or the NCAA.

In conclusion, the former director of athletics stated that the president instructed him not to do anything "unethical." The word "ethical" as defined in Webster's New World Dictionary, includes the following meaning: "conforming to the standards of conduct of a given profession or group." Directors of athletics, by virtue of their leadership positions, are held to a high professional standard. In this instance, by purposely not reporting a serious NCAA violation, the former director of athletics violated that standard and, by doing so, engaged in unethical conduct.

**6. UNETHICAL CONDUCT; FAILURE TO EXHIBIT EXEMPLARY CONDUCT. [NCAA Bylaws 10.1, 10.01.1, 10.1-(c) and 19.01.2]**

The former compliance director failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics due to his involvement in and knowledge of the following:

- a. His authorization and arrangement of round-trip automobile transportation for prospect 1 between Corpus Christi and Laredo, Texas, during the spring semester of the 2007-08 academic year, as set forth in Finding B-4-b.
- b. His attempt to enhance his own financial situation by threatening to disclose unreported NCAA rule violations during a meeting with a member of the institution's human resources staff.

**Committee Rationale**

The enforcement staff and the institution were in substantial agreement as to the facts of this finding and that unethical conduct occurred. The former compliance director agreed with the facts outlined in Finding B-6-a but did not agree that those facts constitute a violation of ethical conduct or exemplary conduct. With regard to Finding 6-b, the former compliance director denied that he attempted to obtain a financial benefit by threatening to disclose unreported NCAA rule violations. The committee finds that the violations occurred.

With regard to Finding B-6-a, the former compliance director reported that, in late January 2008, an institutional admissions advisor informed him that prospect 1's I-20 (student visa) had been terminated by the institution he previously attended and that he would not be permitted to transfer to the institution [See: Finding B-4]. Records reflected that a hold was placed on prospect 1's admissions profile while the problem with his I-20 was being addressed.

The former compliance director reported that after being informed of the issues with prospect 1's student visa, he met with the prospect. He discovered and that the young man did not have the necessary documents in order to obtain a new I-20 and that he was in the United States illegally. After making this determination, the former compliance director telephoned the Canadian consulate and was told that the institution could resolve prospect 1's immigration issue by issuing him a new I-20, after which prospect 1 could leave the United States and re-enter the country with the new I-20.

Upon reviewing the situation with the Canadian consulate, the former compliance director authorized the athletics department secretary and an athletics department graduate assistant to transport prospect 1 to the border town of Laredo, Texas, in order for him to cross into Mexico and then re-enter the United States. The former compliance director reported that the two athletics department employees and prospect 1 departed Corpus Christi for Laredo on January 31, 2008. The secretary reported that she used an athletics department vehicle to transport prospect 1 to Laredo. She used an institution travel card to pay for gasoline, which was charged to the men's basketball program's account. Prospect 1 did not pay any expenses for the trip; the secretary submitted the trip mileage to the institution's purchasing department.

During interviews with the enforcement staff, the former compliance director said the following in admitting that he authorized and arranged the impermissible roundtrip transportation of prospect 1 from Corpus Christi to Laredo, Texas.

So I am trying to get it out of my hands and out of my lap so, at that point, 100 percent responsible. I authorize (the two athletics department employees), I said, get in the car, go to Laredo, okay, I am taking full, I told them to go and that's on me. My options, I felt that was the, not the best, but of all the options certainly, again, I'd rather be guilty of a, of an extra benefit violation than have a kid being sent home in a box from getting shot at the border... I know, you know, I can sit here and say, well, that's reasonable local transportation, I know it's not reasonable local transportation, okay. Now the thing, my intent was if we get everything straightened out and he comes back and he gets eligible, my intent was to hit his scholarship when he came back to find out what the reasonable value of us transporting him down there was, whether its three, four, five



hundred dollars for the transportation and then, you know, ding his scholarship when he gets it for the spring semester, and then, you know is it totally right, no it's not. Is it an extra benefit from arranging it on our own end, yeah, really, it still is because we took our own vehicle down there.

The following related exchange occurred during an interview with the enforcement staff:

**ENFORCEMENT STAFF MEMBER:** This concerned you though, you knew that transporting him, him staying on campus were NCAA violations?

**FORMER COMPLIANCE DIRECTOR :** I hear you, you're darn right I did.

The committee recognizes prospect 1 was in a difficult situation with respect to his immigration status. However, that does not allow the compliance director, the institution's official directly charged with maintaining and enforcing NCAA rules, to knowingly provide an improper inducement to this prospect. Had prospect 1 been successful in enrolling at the institution and joined the institution's men's basketball team, the former compliance director planned to reduce prospect 1's athletics aid in the amount of the transportation inducement. Even if he had been able to do this, it would not have absolved the compliance director of the underlying violation that he knowingly provided a prospect with an improper inducement and the fact that this knowing involvement clearly violates NCAA ethical conduct legislation.

Finding B-6-b involved the former compliance director's attempt to enhance his financial situation by threatening to disclose unreported NCAA rule violations. During the summer of 2007, the former compliance director was informed by the former director of athletics that he (the former compliance director) would not receive a salary increase and promotion that he said had been promised to him. The former compliance director stated that he left the former director of athletics' office and went directly to the office of a human resource director. During a March 6, 2008, interview with the enforcement staff, the former compliance director reported the following with regard to what he said to the human resource director:

I told (the human resource director), I don't want my money, I don't want my title, I want to be bought out right now. I said I know how it works here, we had a previously baseball coach who had urinated in the dugout, who had done numerous other repulsive things and he was bought out for a year's salary. And I said, I'm telling you, that what I know in comparison to what he knows is probably worth a lot more to the institution. (*emphasis added*) I said I've been a team player, I've done what I've

[been] asked, I've taken care of a lot of stuff. I've seen violations swept under the carpet. I said, I'm done. I said, I want to be bought out and I want to know what is going on soon.

At the infractions hearing, the committee questioned the former compliance director about this statement. In that context, the following exchange occurred:

**COMMITTEE MEMBER:**...and now you are still threatening. To me, it is a threat. I accept it as that. Where would you be going with this information if you were going to disclose it? The only power the information has if you told someone.

**FORMER COMPLIANCE DIRECTOR:** That's correct. And my whole situation was that I was in a position where I was being asked by individuals at the institution to cover up NCAA violations. My statement to (the human resource director) was that I was not going to be involved in that anymore, and that it needed to be dealt with and that I wanted to separate from the institution.

**COMMITTEE MEMBER:** Okay. But that doesn't square with what you have said. I am not going to go around the block again. You basically said, "And I said, I'm telling you, that what I know in comparison to what he knows is worth a lot more to the institution." That is more than a year's salary, and that is what you were talking about was a year's salary. To me, that is pretty strong stuff. Who are you going to go to, who are you going to say that to, who are you going to talk to in order to get two more years' salary, or 50 cents more salary? ...you admit in your own words that you did have a discussion with a representative of the institution, (the human resource director), in which you said these things. It is there. We can't deny it.

**FORMER COMPLIANCE DIRECTOR:** That is correct.

During the hearing, the former compliance director attempted to explain that he was not referring to NCAA violations when he spoke to the human resources director about being "bought out:"

**FORMER COMPLIANCE DIRECTOR:** Mr. chair, there were a number of violations that were discussed in my meeting with (the human resources director), and those were not NCAA violations. There were also violations of state law regarding mold infestation...and there were there violations that were going on regarding -- there was a host of issues. That's just violations were not specifically named as NCAA violations.

The committee found that the former compliance director's suggestion that he was speaking about "mold infestation" when he referred to "what he knew" and how much it was "worth" in his meeting with the human resources director was not credible. It was

clear in the context of that conversation that NCAA violations was the issue at hand. That was evident in the previously cited exchange at the hearing when the former compliance director said, "And my whole situation was that I was in a position where I was being asked by individuals at the institution to cover up NCAA violations."

Later during the hearing, the following exchange occurred:

**COMMITTEE MEMBER:** If you know of violations and you know that it is your responsibility to report these violations, and you do not report the violations, what kind of behavior would you categorize that as being, not reporting the violations when you know you should report the violations?

**FORMER COMPLIANCE DIRECTOR:** Cowardly.

Although the former compliance director was not charged with unethical conduct for failing to report NCAA violations, it was clear to the committee that NCAA ethical conduct and exemplary-conduct legislation places an affirmative responsibility on an individual to do what is right, that is, "ethical." In that light, the committee concluded the former compliance director did, in fact, attempt a financial enhancement for himself by indicating that he would not report known NCAA violations in exchange for a "buy out" of his employment contract/agreement. In doing so, he engaged in behavior that was contrary to NCAA ethical-conduct and exemplary-conduct legislation.

**7. LACK OF INSTITUTIONAL CONTROL. [NCAA Constitution 2.1.1, 2.8.1 and 6.01.1]**

The scope and nature of the violations set forth in these findings demonstrate that the institution failed to exercise institutional control in the conduct and administration of its athletics program in critical areas of NCAA compliance. The institution failed to (a) establish adequate systems of policies and procedures to ensure compliance with NCAA regulations, (b) monitor and evaluate its athletics program to detect or deter instances of NCAA violations, (c) provide adequate rules education and training to institutional staff members to ensure that the athletics program operated within compliance of NCAA rules, and (d) sufficiently pursue and accurately report circumstances involving NCAA rule violations. Specifically:

- a. The institution failed to establish an adequate system for monitoring the eligibility of student-athletes to practice, compete and receive athletically related financial aid during the 2003-04 through 2007-08 academic years.

- b. The institution failed to provide adequate NCAA rules education to members of the athletics department and to key individuals in other nonathletics institutional departments during the 2003-04 through 2007-08 academic years.
- c. The institution failed to investigate and report information relating to NCAA violations in an accurate and timely manner during the 2005-06 through 2007-08 academic years. Specifically:
  - (1) During the spring of 2005, the former compliance director discovered that student-athlete 2 had received athletics aid and performed impermissible managerial duties as a nonqualifier during his initial year in residence. The former compliance director subsequently informed the then director of athletics, the former associate director of athletics and the former head men's tennis coach of the violations. However, the athletics department failed to self-report the violations to the NCAA enforcement staff. Student-athlete 2 continued to represent the institution in intercollegiate athletics competition and receive travel expenses during his enrollment at the institution while ineligible to do so as set forth in Finding B-2.
  - (2) During the fall of 2007, the former compliance director informed the former director of athletics of the NCAA violations regarding student-athlete 2. However, the athletics department failed to self-report the violations to either the Southland Conference office or the NCAA enforcement staff.
  - (3) During the spring of 2006, the former compliance director discovered that the institution had permitted student-athlete 1 to compete in a sixth year of eligibility, a year beyond the permissible five-year period of eligibility. The former compliance director reported this information to the former director of athletics and the former associate director of athletics. However the athletics department failed to conduct further timely inquiry into the violation and then failed to report the violation to the Southland Conference office and to the NCAA enforcement staff.

**Committee Rationale**

The enforcement staff and institution are in substantial agreement as to the facts of this finding and that those facts constitute violations of NCAA legislation. The committee finds that the violation occurred.

As stated in the introduction of this report, the committee was troubled by the atmosphere of noncompliance which pervaded the athletics administration at the institution. This occurred under the leadership of several directors of athletics. Rather than discover, investigate and report violations, as required of all member institutions, NCAA violations were approached with a desire to "sweep them under the rug," rather than to properly report them as required by all member institutions.

The committee was also disappointed that the president of the institution was not more proactive when he was informed that the violation involving student-athlete 1 (or "possible violation" as the president described it) had been committed and had not yet been reported. In that context, the following exchange occurred at the infractions hearing:

**COMMITTEE MEMBER:** And one of the things I read in the institution's response was that that you never asked (the former director of athletic) "did you report it?" You just said "is there anything I need to know that is wrong down in the program?" And I was very curious why you didn't ever specifically follow up with (the former athletics director) on what he had decided on this specific case. Presumably, you had not had athletic director coming to you very often saying, since you were just reinstating this program, even we may have a major violation?

**PRESIDENT:** That's not exactly accurate. I did ask several weeks later if they had followed up on it and was told that it had been handled.

**COMMITTEE MEMBER:** And did you ask what that handling was?

**PRESIDENT:** Unfortunately, I did not...

**COMMITTEE MEMBER:** Why not?

**PRESIDENT:** Again, I felt like I had confidence in my new athletic director. He said in the private meeting with me that he was going to do the right thing.

**COMMITTEE MEMBER:** Didn't you want to know if your institution had made a report of a violation to the NCAA? He said he handled it. That could have meant that he filed the report, right?

**PRESIDENT:** There was a great deal going on at that time that I am sure I was distracted by. We had a number of other discussions going on, and clearly I should have asked for a report and I didn't.

The committee concluded that the president should have been more responsive and ultimately responsible for ensuring that the information associated with the violation (or "possible violation," as the president described it) was properly reported.

### C. PENALTIES.

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved major violations of NCAA legislation. In particular, the committee noted that there were violations of ethical conduct legislation and the institution demonstrated a lack of institutional control. These are two of the most serious categories of violations the committee considers in its adjudication of infractions cases. This lack of institutional control led to ineligible participation by two student-athletes, one in women's volleyball and the other in men's tennis, and resulted in a significant competitive advantage.

In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] Further, the committee considered the institution's cooperation in this case. It determined that the cooperation exhibited by the institution was consistent with Bylaw 32.1.4, Cooperative Principle, which requires member institutions to cooperate in investigations. The committee imposes the following penalties (the institution's self-imposed penalties are so noted):

1. Public reprimand and censure.
2. Four years of probation commencing on March 25, 2009, and concluding on March 24, 2013. (Note: The institution proposed a three-year period of probation, beginning with the public release of its response to the NCAA's notice of allegations, October 31, 2008.).
3. Student-athlete 1 participated while ineligible on the women's volleyball team during the 2005-06 academic year, leading to a competitive advantage for the institution in that sport. Because of this, for each of the 2009-10 and 2010-11 academic years, the institution shall limit the women's volleyball program to no more than nine total grants in women's volleyball for those two years. [**Note 1:** The grant-in-aid limit for women's volleyball is 12. **Note 2:** The institution had averaged 9.68 grants the past four years.]

4. Student-athlete 2 participated while ineligible on the men's tennis team for portions of three academic years (spring 2005, 2005-06 and 2006-07 academic years) resulting in a significant competitive advantage for the institution in that sport. Because of this, the men's tennis program shall reduce athletics grants in aid by one from the NCAA maximum (4.5) as set forth in Bylaw 15.5.3.1.1 for the 2009-10 through 2011-12 academic years. This will limit the institution to 3.5 equivalencies in men's tennis for those three years. (The institution had proposed a reduction of .5 equivalency from the NCAA maximum for the 2009-10 academic year only.)
5. The institution's women's volleyball team shall end its 2009-10 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition, including a international tour, following that season. Moreover, during the 2009-10 academic year, the women's volleyball team may not take advantage of the exceptions to the limitation in the number of dates of competition that are provided in Bylaws 17.28.9 and other exceptions to the maximum number of contest limitations.
6. During the 2008-09 through 2010-11 academic years, the men's tennis team shall limit its schedule to 23 dates of competition, which is a two-contest reduction from the 25 maximum allowed in NCAA Bylaw 17.26.5.1. (Institution imposed)
7. The institution's men's tennis team shall end its 2009-10 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition, including a international tour, following that season. Moreover, during the 2009-10 academic year, the men's tennis team may not take advantage of the exceptions to the limitation in the number of dates of competition that are provided in Bylaws 17.26.5.3 and other exceptions to the maximum number of contest limitations.
8. During the 2008-09 academic year, official visits will be limited to the following in the sports of men's basketball, men's tennis and women's volleyball:
  - **Men's Basketball:** Limit of two during the 2008-09 academic year. [Note: The maximum number of official visits allowed in men's basketball is 12.] (Institution imposed)
  - **Men's Tennis:** Limit of one during each of the 2008-09, 2009-10 and 2010-11 academic years. (Institution imposed)
  - **Women's Volleyball:** Limit of three during the 2008-09 and 2009-10 academic years. (Institution imposed)

9. In the sport of women's volleyball, the institution has vacated all wins in which student-athlete 1 competed during the 2005-06 academic year. All of student-athlete 1's individual records and awards also were vacated. The institution's women's volleyball records will reflect these vacations, including in all publications that include such records (e.g., media guides, recruiting materials). The institution will omit any public reference to the 2005 tournament win in which student-athlete 1 participated. Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publication and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the student-athlete and contest(s) impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than ninety (90) days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process.
  
10. In the sport of men's tennis, the institution has vacated all matches that student-athlete 2 won (both singles and doubles competition) during the spring of 2005 and the 2005-06 and 2006-07 academic years, and the team's totals will be reconfigured. All of student-athlete 2's individual records and awards also were vacated. The institution's men's tennis records will reflect any resulting forfeitures, including all publications that include such records (e.g., media guides, recruiting materials). The institution will omit any public reference to any wins in which student-athlete 2 participated during the time period above. As with the women's volleyball vacation of records, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publication and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the student-athlete and contest(s) impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than ninety (90) days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process, whichever is later.
  
11. No members of the men's basketball coaching staff were allowed to make off-campus contacts during the first week of the September 9 through October 5,



2008, contact period. In addition, the assistant coach involved in the violations documented in Finding B-3 did not make any off-campus contacts the first three weeks of the contact period and was not allowed to make any recruiting telephone calls during August or September 2008. Finally, no members of the men's basketball coaching staff will be allowed to make off-campus contacts during the first week of September - October 2009 contact period. (Note the institution imposed the contact restrictions in 2008 and the committee added the basketball recruiting contact restrictions for 2009.)

12. No recruiting telephone calls were made by any men's basketball coaching staff members during the entire month of August 2008. (Institution imposed)
13. The head men's and women's tennis coach shall execute all recruiting activities, both on and off campus, for the men's tennis program through the 2009-10 academic year. The two full-time assistant coaches will be precluded from any men's tennis recruiting activities. (Institution imposed)
14. Letters of admonishment from the faculty athletics representative were sent to two assistant men's basketball coaches for their involvement in NCAA violations included in this response. These letters will become a part of the coaches' permanent employment file. (Institution imposed)
15. During this period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by June 1, 2009, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by December 15 of each year during the probationary period. Particular emphasis should be placed on the development of methods, policies and procedures designed to detect and properly report potential NCAA violations. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

16. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
17. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, Texas A&M University–Corpus Christi shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, March 25, 2009.

Should Texas A&M University-Corpus Christi or any involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

**NCAA COMMITTEE ON INFRACTIONS**

John S. Black  
Melissa Conboy  
Paul Dee, chair  
Eileen K. Jennings  
Alfred J. Lechner, Jr.  
Andrea Myers  
Dennis E. Thomas

## APPENDIX ONE

### CASE CHRONOLOGY.

#### 2004

August – Student-athlete 1 enrolled at Texas A&M-Corpus Christi and represented the institution in intercollegiate women's volleyball competition during the 2004-05 academic year and while ineligible during the 2005-06 academic year.

Spring – Student-athlete 2 enrolled at Texas A&M-Corpus Christi as a nonqualifier. Student-athlete 2 fulfilled a year of residence at the institution during the spring and fall of 2004 while receiving impermissible athletically related financial aid and serving as a manager for the men's tennis program during the year of residence. Student-athlete 2 represented the institution in intercollegiate men's tennis competition during the spring of 2005 and the 2005-06 and 2006-07 academic years.

#### 2005

Spring – The former compliance director discovered that student-athlete 2 received athletics aid during the spring of 2004 and performed managerial duties as a nonqualifier during the spring and fall of 2004.

#### 2006

Spring – Student-athlete 1 submitted an evaluation of her foreign transcript to Texas A&M-Corpus Christi and transferred 93 credit hours to the institution. Around this time, an academic coordinator became aware that student-athlete 1 had transferred the credit hours to the institution and subsequently informed the former compliance director of student-athlete 1's transfer credits. Upon review, the former compliance director determined that the institution had permitted student-athlete 1 to compete in a sixth year of eligibility, in excess of the permissible five-year period of eligibility.

July 24 - Texas A&M-Corpus Christi hired the former director of athletics.

August and September – The former compliance director and the former associate director of athletics informed the former director of athletics, soon after he began his employment at the institution, that student-athlete 1 had impermissibly competed in a sixth year of eligibility.

2006-07 academic year - The institution did not conduct any further investigation into the alleged violations involving student-athlete 1.

## **2007**

November 8 – The former compliance director met with a member of the human resources staff when he became aware that he did not receive a promotion and salary increase that he believed was promised to him by the former director of athletics. The former compliance director informed the human resource staff member of unreported NCAA violations concerning student-athlete 1 and demanded a settlement in exchange for his silence on the matter.

November 12-13 – The internal audit manager for the Texas A&M System, conducted on-campus interviews with institution personnel concerning the unreported NCAA violations involving student-athlete 1.

November 20 – The former director of athletics contacted the NCAA director of enforcement for secondary infractions to discuss a possible violation in the women's volleyball program that occurred during the fall of 2005.

November 26 – The former director of athletics e-mailed to the NCAA the institution's self-report regarding alleged violations involving student-athlete 1.

December 19 - The secondary enforcement staff processed the institution's self-report involving student-athlete 1 and informed the designated institutional administrators and the Southland Conference commissioner per written correspondence.

## **2008**

January 11 – The institution's president sent a letter to the NCAA director of enforcement for secondary infractions, informing him that the matter addressed in the November 2007 self-report was still under investigation by the Texas A&M System Internal Audit department.

January 29 – Prospect 1 arrived at the institution to enroll in classes.

January 30 – The former compliance director contacted the NCAA director of enforcement for secondary infractions, to inform him that the institution's November 2007 self-report was incomplete and inaccurate and that there were additional violations in the athletics program.

January 30 - The institution determined that prospect 1's I-20 visa was terminated December 18, 2008.

January 31 – The former compliance director directed the athletics department secretary, and a graduate assistant, to provide prospect 1 round-trip automobile transportation to Laredo, Texas, so that he could depart and re-enter the United States in an attempt to renew his expired I-20 documentation.

February 1 – The former compliance director became aware that prospect 1 was unable to renew his expired I-20 visa and that he would not be able to remain in the country.

February 4 - The enforcement staff contacted the former compliance director to review his January 30 report to the NCAA director of enforcement for secondary infractions. The enforcement staff subsequently began off-campus interviews in February.

February 7 – Prospect 1 departed Corpus Christi and returned to Canada.

February 20 – The institution's president sent a second letter to the NCAA director of enforcement for secondary infractions informing him that the matter addressed in the November, 2007 self-report was still under investigation by the Texas A&M System internal audit department and that the auditors would be conducting on-campus interviews March 3-7, 2008.

February 28 – The internal auditor contacted the enforcement staff to arrange for the staff's involvement in the auditors' March 3-7, 2008, on-campus interviews.

March 3-7 - The enforcement staff conducted on-campus interviews.

March 26 - The enforcement staff issued a notice of inquiry to the institution.

March to August - The enforcement staff and the institution's outside counsel continued to conduct interviews and gather academic records and other documentary evidence.

July 23 - The enforcement staff issued a notice of allegations to the institution; the former director of athletics and the former compliance director.

October 23 - The NCAA Division I Committee on Infractions granted an extension to all involved parties for their response deadline and changed the response date to November 4, 2008.

November 4 - The institution, the former director of athletics and the former compliance director submitted their responses to the notice of allegations.

November 11 - The enforcement staff and the former director of athletics conducted a prehearing conference.

November 13 - The enforcement staff and the former compliance director conducted a prehearing conference.

November 13 - The enforcement staff and the institution conducted a prehearing conference. During the prehearing conference, the institution informed the enforcement staff that it had

discovered that student-athlete 1 impermissibly received \$500 of athletically related aid during the 2004 fall semester.

December 5 – The institution, the former director of athletics and the former compliance director appeared before the NCAA Division I Committee on Infractions.

March 25 – Infractions Report No. 298 was released.

## APPENDIX TWO

### **CORRECTIVE ACTIONS AS LISTED IN THE INSTITUTION'S OCTOBER 31, 2008, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

1. In June 2008, the institution created three new professional-level positions in the athletic compliance and academic services areas, including a senior athletic academic coordinator and a compliance coordinator. The compliance coordinator hired by the institution has Division I athletics compliance experience and a law degree and will focus on monitoring and education. The new associate director of athletics for compliance has eight years of Division I compliance experience. Further, the athletics compliance and academic staffs were removed from the purview of the director of athletics and now report to the associate vice president for academic affairs. In addition, the newly hired associate athletics director for compliance has alternate reporting lines to the director of athletics, the provost, and the president.

The president created an Athletics Oversight Committee in April 2008 composed of the following; the vice president for institutional advancement; the associate vice president for finance and administration; and the faculty athletics representative and professor of finance. The current director for compliance and associate vice president for academic affairs were later added to the committee. The institution president's directives to the committee included overseeing the institution's investigation and making recommendations regarding corrective and punitive measures. The committee also was charged with evaluating the structure and leadership of the athletics department, the athletics investigative process, NCAA rules education opportunities for institutional staff, and whether an atmosphere in which compliance with NCAA rules is understood to be an institutional mandate exists.

2. The Oversight Committee shall meet weekly during the institution's investigation through its Committee on Infractions appearance. Further, the president has determined that this committee shall remain in place to oversee the implementation of the institution's self-imposed and Committee on Infractions imposed corrective and punitive measures. The Oversight Committee shall meet quarterly during the probationary period. At the conclusion of the probationary period, the president will determine whether the committee will continue to exist and, if so, define its role relative to athletics operations.
3. The institution will undergo an extensive Southland Conference compliance review in the spring of 2009.
4. The women's volleyball program shall continue its practice of not recruiting or signing any international student-athletes for the 2008-09 and the 2009-10 academic years. This

self-imposed practice began in response to the NCAA violations involving student-athlete 1 has been in effect for the 2006-07 and 2007-08 academic years.

5. The following is a summary of recent and continuing efforts relative to athletics compliance education:
  - a. The president brought in an outside compliance group to provide a comprehensive compliance education program for all athletics staff and staff outside of the athletics department that deal with athletics matters July 1 to 2, 2008. The institution also hired the outside compliance group to serve as the institution's interim compliance administrator during the period between the former compliance director's departure and the current director of compliance's hiring.
  - b. Fifteen institutional staff, representing athletics and other departments, attended one or both sessions of the NCAA Regional Compliance Seminar June 1 to 6, 2008.
  - c. The new athletics compliance staff will provide groups, including student-athletes, boosters, coaches, non-coaching athletics staff, and selected institutional staff some or all of the following: (1) monthly newsletters; (2) compliance "tips of the week;" (3) required monthly in-person meetings; (4) periodic e-mails; (5) comprehensive annual training; and (6) access to a compliance web site updated on a frequent basis.
  - d. Coaches new to the institution will receive intensive education on key areas of NCAA legislation from the athletics compliance office within 60 days from the date of hiring.
  
6. The institution recently has developed extensive policies and procedures for the athletics compliance and academic areas. These new provisions will continue to be expanded and reviewed on a regular basis. Examples of new policies include:
  - a. A revised athletics eligibility certification process that details individual steps by which student-athlete eligibility is certified and details month-by-month responsibilities for all institutional staff, both within and outside of the athletics department.
  - b. The associate director of athletics for compliance now reviews and approves all coaches' travel and reimbursement requests.
  - c. The president directed the institution's provost to develop policies that will mandate that all international prospective students' transcripts be received by the institution and shared with athletics staff.
  - d. A registration hold was implemented that blocks student-athletes from adding or dropping classes (i.e., and falling below full-time enrollment) without approval from their head coach and the Center for Athletic Academic Services.



- e. The Financial Aid Office no longer awards any institutional or outside aid (except loans) without the approval of the associate athletics director for compliance.
- f. All sports are required to submit playing and practice reports to the athletics compliance office on a weekly basis. The forms must be signed by the head coach, an assistant coach (if applicable), and at least one student-athlete. In addition, the compliance office staff conducts in-person spot checks of practices on a weekly basis.
- g. All sports now are required to submit recruiting logs each month to the compliance coordinator for review.

# Exhibit 6



## **News Release**

**“This report does not reflect the decisions made by the NCAA Division I Infractions Appeals Committee relative to this case. For a full explanation of the Infractions Appeals Committee’s decision, see the appeals committee’s report linked in on this case’s webpage.”**

FOR RELEASE:  
February 11, 2009  
3 p.m. Eastern time

CONTACT:  
Paul T. Dee, chair  
NCAA Division I  
Committee on Infractions  
University of Miami

### **EASTERN WASHINGTON UNIVERSITY** **PUBLIC INFRACTIONS REPORT**

#### **A. INTRODUCTION.**

On December 6, 2008, officials from Eastern Washington University and the former head football coach ("former head coach") along with his legal counsel appeared before the NCAA Division I Committee on Infractions to address allegations of violations in the institution's athletics program. Both the institution and the former head coach admitted the violations.

The violations included impermissible participation in athletically related activities by ineligible football student-athletes, the use of too many countable football coaches, failure to monitor the football program by the former head coach and lack of institutional control over the athletics program.

The violations were the result of the former head coach's inattention to certain aspects of his program and the institution's failure to have in place an effective system of athletics compliance. As this committee has stated in previous cases, member institutions have a duty to establish and maintain thorough and comprehensive campus-wide compliance systems. (e.g. *Gardner-Webb University*, Case No. M197 (2004); *Texas Southern University*, Case No. M257 (2008)). Failure to do so will result, as here, in a finding of lack of institutional control.

A member of the Big Sky Conference, the institution has an enrollment of approximately 10,000 students. The institution sponsors six men's and eight women's intercollegiate sports. This is the institution's second major infractions case; it previously appeared before the committee in 1987 for a case involving the men's basketball program.

**B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

**1. IMPERMISSIBLE PARTICIPATION. [NCAA Bylaws 13.7.2.1, 14.01.1, 14.3.2.1.1, 14.3.2.2, 14.3.5.1.1, 14.3.5.1.2, 14.5.4.2, 14.11.1 and 16.2.1.3.1 (Note: Bylaw citations are to the 2008-09 NCAA Division I Manual.)]**

During the 2003-04 through the 2006-07 academic years, 13 football student-athletes were permitted to participate in practice activities even though they were NCAA nonqualifiers, they did not have their eligibility certified by the institution and/or the NCAA Initial-Eligibility Clearinghouse, or did not meet NCAA transfer requirements. Additionally, two of the student-athletes were provided housing and meals during preseason practice prior to the first day of classes even though they were not eligible to receive such benefits. Further, in September 2007, the institution failed to withhold one of the student-athletes from competition after discovering the young man's involvement in the NCAA violations.

**Committee Rationale**

The enforcement staff and institution were in substantial agreement with the facts of this finding and that violations occurred. The committee finds that the violations occurred.

During the 2004-05 through the 2006-07 academic years, four recruited football student-athletes ("student-athletes 1, 2, 3 and 4" respectively), who were NCAA nonqualifiers, were permitted to participate in practice activities during their initial year of enrollment. The young men observed and attended practice sessions; team meetings and film study; participated in conditioning activities on an adjacent field under the direction of a person categorized as an assistant coach ("life skills coach") (See Finding B-2 below) and acted as members of the "chain gang."

Additionally, student-athletes 1 and 3 were permitted to stand in the end zone during three home football contests. They were told by a member of the football staff that it was allowable. At no time were the young men in uniform.

In August 2006, football coaches arranged for student-athlete 2 to receive free housing and meals for approximately three weeks at an on-campus residence hall that housed

football student-athletes attending preseason practice. Sometime in August 2006, the young man was informed by an assistant football coach at the institution ("assistant coach A") that he was an NCAA non-qualifier and, therefore, unable to practice. However, assistant coach A told the young man that he could observe fall football camp, which began before the first day of classes. Student-athlete 2 moved to the vicinity of campus around August 12 and observed practice until August 31, when classes began. While on campus prior to the beginning of classes, he stayed in an on-campus dormitory and ate in a dining hall. Student-athlete 2 stated that he did not know how his housing was arranged but that either assistant coach A or the former head coach provided him a meal card for use at the dining hall. The former head coach was aware of student-athlete 2's status but allowed him to receive the housing and meals because the young man was considering an appeal of his clearinghouse certification.

During the 2003-04 through 2006-07 academic years, five recruited football student-athletes ("student-athletes 5, 6, 7, 8, and 9" respectively) and one nonrecruited student-athlete ("student-athlete 10") who were not certified by the NCAA Clearinghouse were permitted to participate in practice activities during their initial year of enrollment. Similar to student-athletes 1, 2, 3 and 4 above, student-athletes 5, 6, 7, 8 9 and 10 attended meetings, observed practices and took part in coach-supervised conditioning drills before they were eligible to do so pursuant to NCAA rules. None of them were certified as eligible to practice or compete during their first year on campus.

Additionally, on one occasion in 2006, student-athlete 5 was permitted to stand on the sidelines in street clothes with the team during a home football contest.

During the 2006-07 academic year, a nonrecruited football student-athlete ("student-athlete 11") and a recruited football student-athlete ("student-athlete 12"), were permitted to participate in traditional practice activities with the football team even though the young men were not eligible. Student-athlete 11 practiced even though he was not listed on the squad list and the institution had not yet certified his high school core-curriculum grade-point average and standardized test score. He had been certified by the clearinghouse as a qualifier in September 2006, but the institution had left him off its Institutional Request List. The institution did not receive confirmation of his certification status until March 2007, after he had practiced the previous fall. Student-athlete 12 was referenced on the squad list as a nonqualifier but was still allowed to practice.

During the 2006-07 academic year, a recruited football student-athlete ("student-athlete 13") was permitted to participate in practice activities during his initial year of enrollment even though he was a two-year college transfer student-athlete who did not meet NCAA transfer requirements. Additionally, in September 2006, football coaches arranged for student-athlete 13 to receive free housing and meals for approximately two weeks at an on-campus residence hall that housed football student-athletes attending

preseason practice. Student-athlete 13 phoned the former head coach during the summer of 2006 and asked if he could move to campus prior to the first day of classes. The former head coach agreed. Student-athlete 13 stayed in an on-campus residence hall until classes began and used a meal card to eat in the dining hall. He could not recall who arranged his housing, but remembered that he obtained a meal card from an assistant football coach ("assistant coach B").

On September 29, 2007, the institution permitted student-athlete 4 to compete in a football contest even though the institution had previously discovered his involvement in the violations noted above, which rendered student-athlete 4 ineligible for competition. Student-athlete 4's impermissible practice activities came to light when the young man was interviewed by institutional personnel on September 24. The institution was aware that it had to declare him (and the other student-athletes involved in the violations) ineligible and request reinstatement, but it allowed the young man to compete five days later. Student-athlete 4 was reinstated within a week following the competition.

**2. EXCEEDING COACHING LIMITS. [NCAA Bylaws 11.01.4, 11.7.1.1.1 and 11.7.3 (Note: Bylaw citations are to the 2008-09 NCAA Division I Manual.)]**

During the 2003-04 through the 2006-07 academic years, the football program exceeded the maximum number of 11 countable coaches.

**Committee Rationale**

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that violations occurred. The committee finds that the violations occurred.

During the applicable academic years, anywhere from 13 to 15 individuals per year were allowed to perform coaching duties in the football program. The number of individuals who performed coaching duties in each year was as follows:

2003-04: 13

2004-05: 15

2005-06: 14

2006-07: 15.

During said years, six of the "extra" individuals were designated as student assistant coaches; however, five of the six did not meet NCAA coaching legislation requirements for student coaches (for instance, some were not enrolled as full-time students) and should have been considered as countable coaches. Additionally, the life skills coach and one former football student-athlete ("former student-athlete") who volunteered with the

football program performed some activities at practice that warranted their classification as countable coaches.

The life skills coach was on a quarterly faculty appointment that paid him less than \$5,000 per year. He attended approximately 75 percent of the team's practices and assisted with field and film equipment, tracked player injuries and organized the chain gang. Though he was not considered a kicking coach, the life skills coach sometimes assisted the kickers at practice. He used a stop watch to time their kicks and occasionally offered tips regarding form and technique. He was identified as a coach on football travel rosters from 2003 through 2006.

The former student-athlete approached the former head coach in the spring of 2005 and asked to be involved with the program. He (the former student-athlete) was allowed to assist in the weight room, observe practices and attend coaches meetings. During practices he typically observed the offensive line and soon was acting as "another set of eyes" for the offensive line coach. The former student-athlete began to speak to student-athletes on the practice field about technique and strategy, and he sat in the press box with other coaches during games, offering input and suggestions. He traveled with the team to away games and was listed as a coach.

**3. FAILURE TO MONITOR AND PROMOTE AN ATMOSPHERE OF COMPLIANCE. [NCAA Constitution 2.8.1 and Bylaw 11.1.2.1 (Note: Bylaw citations are to the 2008-09 NCAA Division I Manual.)]**

The scope and nature of the violations detailed in Findings B-1 and B-2 demonstrate that, during the 2003-04 through the 2006-07 academic years, the former head coach failed to promote an atmosphere of compliance within the football program and failed to monitor the program.

**Committee Rationale**

The enforcement staff, the institution and the former head football coach were in substantial agreement as to the facts of this finding and that violations occurred. The committee finds that the violations occurred.

While all parties are in agreement that the institution did not adequately educate the football coaching staff on NCAA legislation (See Finding B-4 below), the former head coach likewise failed to meet his responsibilities to monitor his program and establish an atmosphere of compliance. The committee is most concerned that, as he learned of various violations that had occurred in his program, the former head coach did not report them to the institutional compliance office. He also did not adequately oversee the two

individuals (the life skills coach and the former student-athlete) who performed coaching duties for his team.

The former head coach learned in the winter of 2006 that student-athletes 1-10 should not have attended practice sessions in previous years, but instead of reporting the violations he made the decision to "not think twice about it...move on and move forward." Similarly, when he learned that student-athletes 11 and 12 had practiced while ineligible, he prohibited them from practicing further but did not report the violations.

The former head coach acknowledged being unaware of NCAA legislation regarding student assistant coaches. Partly as a result, his team used a number of individuals in that capacity even though they did not meet the requirements necessary to serve in the position.

The former head coach further failed to monitor the activities of the life skills coach and the former student-athlete. He was aware that the life skills coach attended some practices and interacted with the kickers and nonqualifiers. However, the former head coach did not know the extent of the life skills coach's involvement with the student-athletes. He personally observed the former student-athlete speak to and conduct drills with student-athletes on the practice field, and he was aware that the former student-athlete was in the press box at games, but he stated he did not recognize that such activities constituted coaching. As the head coach of the program, it was his duty to understand what activities constituted coaching and to assure that only the eleven countable coaches engaged in those activities.

**4. LACK OF INSTITUTIONAL CONTROL AND FAILURE TO MONITOR.  
[NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 (Note: Bylaw citations are to the  
2008-09 NCAA Division I Manual.)]**

The scope and nature of Findings B-1 and B-2 demonstrate that during the 2003-04, 2004-05, 2005-06 and 2006-07 academic years, the institution lacked control and monitoring in the conduct and administration of its athletics program.

**Committee Rationale**

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that violations occurred. The committee finds that the violations occurred.

The athletics department failed (a) to have in place a system for monitoring preseason housing and meals; (b) to establish a proper system for monitoring the activities of individuals involved with the football program, resulting in countable coaching staff limit



violations; and (c) to provide adequate NCAA rules education, which contributed to the violations outlined in Findings B-1 and B-2 above.

The deficiencies within the athletics program were exacerbated by consistent turnover in certain positions and by the institution's failure to devote adequate resources to the compliance effort. During the relevant time-frame, the institution had five directors of athletics and three presidents, making it difficult to implement a comprehensive compliance system or establish long-term continuity. A more direct problem in the athletics department was that the compliance coordinator also served as the faculty athletics representative and had teaching responsibilities. It was simply not feasible for one individual to hold three such diverse and responsible positions and be able to devote the necessary time and attention to oversee an NCAA Division I compliance program. As a result, the ability of the institution to monitor and provide direction to athletics personnel was insufficient.

The department did not have a system for monitoring housing and meals provided to student-athletes during preseason football practice prior to the first day of classes. The compliance office did not review the names of student-athletes who were receiving these benefits, instead leaving it the football coaching staff to determine who was eligible to receive them. Also, the athletics administration did not track the number of allowable coaches in the sport of football or make sure that all who were acting in that capacity were permitted by NCAA rules to do so. The individual in the athletics department who reviewed forms identifying coaches did so for fiscal purposes only and was not aware of NCAA coaching limits. Finally, the athletics department did not provide adequate rules education to all personnel, which contributed to misunderstandings by the former head coach and others regarding the permissibility of certain activities detailed in Findings B-1 and B-2 above.

**C. SECONDARY VIOLATION: [NCAA Bylaw 13.7.2.1.1]**

In September 2005, an enrolled student-athlete purchased a meal for student-athlete 1, who at the time was a prospect visiting campus to observe preseason football practice.

**D. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation. The institution did not have in place a comprehensive compliance program, leading to violations of rules that should have been well-known to athletics personnel. In addition,

the former head coach and the institution did not adequately monitor the football program or establish an atmosphere of compliance, and the institution failed to control certain aspects of the athletics program.

In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions, noting particularly that the institution has made significant improvement in its athletics compliance program. [Note: The institution's corrective actions are contained in Appendix Two.] The committee determined that the contest in which student-athlete 4 competed on September 29, 2007, after he was discovered to be ineligible, was subject to vacation; however, the institution lost the game. In no other situation was vacation appropriate. Further, the committee determined that the cooperation exhibited by the institution was consistent with Bylaw 32.1.4, Cooperative Principle. The committee imposes the following penalties, with the institution's self-imposed penalties so noted:

1. Public reprimand and censure.
2. Three years probation from February 11, 2009, through February 10, 2012.
3. The institution will limit the number of overall equivalencies awarded in football to 61 for the 2008-09 through 2010-11 academic years. (Institution imposed).
4. The institution will reduce the number of full-time coaches per Bylaw 11.7.3 by one from 11 to 10 for three years (the 2008-09 through 2010-11 academic years). (Institution imposed).
5. The institution will limit the number of incoming freshmen who are non-qualifiers to no more than three per year for all three years of probation (the academic years 2009-10, 2010-11 and 2011-12). The institution previously averaged seven incoming freshman non-qualifiers per year over a four year period. (Institution imposed a reduction to five per year for the academic years 2008-09, 2009-10 and 2010-11).
6. The institution will not allow the recruitment of non-qualifiers from two-year institutions for three years. (the 2008-09 through 2010-11 academic years). (Institution imposed).
7. The institution will prohibit incoming student athletes who have not been certified by the NCAA Eligibility Center from attending preseason football camp for a period of two years to include 2009-10 and concluding in the 2010-11 academic year (even though rules permit a 10-day grace period). For 2008-09 only, recruited student-athletes who have sent their final transcripts and test scores to

the NCAA Eligibility Center and are coded HO2 will be allowed to attend preseason camp. (Institution imposed).

8. The violations set forth in Part B above bestowed a significant competitive advantage on the institution. Ineligible student-athletes were able to practice, and the football team had the benefit of extra coaches. The institution also lacked control over its athletics program. Therefore, the institution's football team shall end its 2009 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition.
9. The former head coach shall attend, at his own cost, an NCAA Regional Rules Seminar during each of the three years of probation. He shall certify in writing which sessions of the seminars he attended and, within 30 days of his return to the campus of his present employer, his present employer shall send a letter to the committee certifying the attendance of the former head coach at the seminar.
10. The former head coach shall not be allowed to have any contact with his present institution's football squad during the first three days of practice (for the full squad) prior to the 2009 season. During these three days he cannot be present on the practice fields, in team meetings for any purpose, in the weight room or any location where athletically related team or individual activities (as defined by NCAA Bylaw 17.02.1) are occurring.
11. The institution shall attach a copy of its present athletics policies and procedures manual to the preliminary report (See Penalty 12-b below).
12. During this period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by April 1, 2009, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by December 1 of each year during the probationary period. Particular emphasis should be

placed on eligibility certification, monitoring prospects that arrive in the vicinity of campus prior to initial enrollment, monitoring student-athletes who are housed and fed on campus at times other than when school is in session, monitoring those engaged in coaching activities and maintaining a viable system of athletics compliance. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

13. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
14. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, the Eastern Washington University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, February 11, 2009.

Should Eastern Washington University or the involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

John S. Black  
Melissa (Missy) Conboy  
Paul T. Dee, chair  
Eileen K. Jennings  
Alfred J. Lechner, Jr.  
Dennis E. Thomas

## **APPENDIX ONE**

### **CASE CHRONOLOGY.**

#### **2007**

February 1 – The institution submitted a self-report to the NCAA regarding countable coaches used by the football program.

March 16 – The director of athletics contacted the NCAA enforcement staff and reported possible NCAA violations within the athletics program.

May 2 – The institution submitted a supplemental self-report regarding countable coaches used by the football program.

August 30 – The enforcement staff sent the institution a notice of inquiry letter.

October 31 – The enforcement staff drafted a notice of allegations and provided this draft to the institution and to the then head football coach for their review.

#### **2008**

January 25 – The enforcement staff, the institution and the former head football coach came to an agreement on the findings and agreed to process the case using the summary disposition process.

March 28 – The summary disposition report was provided to the NCAA Division I Committee on Infractions.

May 6 – The NCAA Division I Committee on Infractions rejected the summary disposition report.

May 23 – The enforcement staff issued a notice of allegations to the institution and to the former head football coach.

August 19 – The institution submitted a response to the notice of allegations.

August 25 – The former head football coach submitted a response to the notice of allegations.

September 15 – The enforcement staff and the institution conducted a prehearing conference.

September 23 – The enforcement staff and the former head football coach conducted a prehearing conference.

December 6 – The institution appeared before the NCAA Division I Committee on Infractions.

**2009**

February 11 – Infractions Report No. 297 was released.

## APPENDIX TWO

### **CORRECTIVE ACTIONS IDENTIFIED BY THE INSTITUTION'S AUGUST 19, 2008, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

Hired a full-time director of compliance in 2007;

Hired a full-time academic coordinator in 2007;

Posted for a full-time compliance coordinator in 2008 (recruitment for position has begun);

Posted for a full-time administrative assistant for football (recruitment for position has begun);

Underwent a compliance review conducted by the Big Sky Conference;

Included more comprehensive compliance language in all new employment contracts for coaches;

Included a mandate of NCAA rules education for all new athletics employment appointments; Initiated rules compliance and education sessions, including bi-monthly head coaches meetings, quarterly assistant coaches meetings, quarterly all-staff meetings, monthly compliance newsletters, and compliance tips of the week;

Increased student-athlete rules education;

Began conducting individual meetings with coaching staffs;

Retained an outside consultant firm to conduct a compliance seminar for all staff and coaches (held on June 4, 2008) and to provide suggestions for appropriate actions to increase the effectiveness of its compliance program;

Initiated spot-checking for all team practices;

Declared student-athletes ineligible and sought reinstatement in a prompt manner prior to the completion of the Enforcement Staff's investigation;

Reviewed the responsibilities of the position of life skills coordinator and provided clarification of these responsibilities to football coaching and other athletics department staff members;

Required the then (now former head football coach) to attend the 2007 NCAA Regional Rules Seminar;



Issued a letter of reprimand for the then head football coach;

Issued of letters of admonishment to two assistant football coaches.

# Exhibit 7

**REPORT OF THE  
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION  
DIVISION I INFRACTIONS APPEALS COMMITTEE**

**June 30, 2009**

Report No. 289

Alabama State University

Montgomery, Alabama

This report is filed in accordance with NCAA Bylaw 32.11 and is organized as follows:

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## **I. INTRODUCTION.**

The Alabama State University appealed to the NCAA Division I Infractions Appeals Committee specific findings of violations and penalties as determined by the NCAA Division I Committee on Infractions. In this report, the Infractions Appeals Committee addresses the issues raised by Alabama State.

## **II. BACKGROUND.**

The Committee on Infractions issued Infractions Report No. 289 December 10, 2008, in which the committee found violations of NCAA legislation in the football program. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties accordingly. [December 10, 2008, issue of The NCAA News.]

This case centered on violations of NCAA bylaws governing offer and inducement of prospective student-athletes; recruiting; financial aid; extra benefits; student-athlete eligibility for practice and competition; playing and practice seasons; academic fraud; supplemental fund for coach; failure to monitor by coach; and institutional control.

After the Committee on Infractions issued its report, Alabama State filed a timely notice of appeal December 19, 2008. A written appeal was filed February 4, 2009. The Committee on Infractions filed its response March 9, 2009. Alabama State filed its rebuttal to the Committee on Infractions response March 23, 2009. The case was considered by the Infractions Appeals Committee April 25, 2009 (see Section VII below).

## **III. VIOLATIONS OF NCAA LEGISLATION AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.** [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated December 10, 2008.]

### **B-1. INELIGIBLE PARTICIPATION IN PRACTICE, COMPETITION AND RECEIPT OF FINANCIAL AID.** [NCAA Bylaws 14.1.6.1 (1999-00 and 2002-03 NCAA Division I Manuals), 14.1.6.2 (2002-03 NCAA Division I Manual), 14.1.6.2.2 (2002-03 NCAA Division I Manual), 14.1.7.1 (1999-00, 2000-01 and 2002-03 NCAA Division I Manuals), 14.4.3.1.4 (2001-02 NCAA Division I Manual), 14.4.3.2 (2002-03 NCAA Division I Manual), 14.4.3.3, 14.5.4.3 (2000-01 NCAA Division I Manual), 14.5.4.3.1 (2000-01 NCAA Division I Manual) and 14.5.5.2.10 (2000-01 and 2002-03 NCAA Division I Manuals) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]

During the 1999-00 to 2002-03 academic years, numerous student-athletes were permitted to practice, compete and receive athletically related financial aid while ineligible. The sports involved include football, men's and women's basketball,

and baseball. These student-athletes were ineligible for a variety of reasons. Specifically:

- a. During the 2000-01 and 2001-02 academic years, six student-athletes (four in football, one in men's basketball and one in women's basketball) competed while ineligible due to their failure to designate a program of studies leading toward a specific baccalaureate degree by the beginning of the third year (fifth semester) of enrollment. [Bylaw 14.4.3.1.4 (2001-02 NCAA Division I Manual)]
- b. During the 2000-01 to 2002-03 academic years, the erroneous application of the percentage-of-degree requirement legislation (25/50/75) resulted in the ineligible participation of 22 football student-athletes and one baseball student-athlete. [Bylaw 14.4.3.2 (2002-03 NCAA Division I Manual)]
- c. During the 2000-01 to 2002-03 academic years, the institution erroneously certified the eligibility of four football student-athletes based on grade-point average miscalculations. The institution certified the student-athletes as eligible when the student-athletes entered their fourth and/or fifth years of collegiate enrollment, even though the student-athletes had not achieved 95 percent of the institution's grade-point average required for graduation. [Bylaw 14.4.3.3]
- d. During the 1999-00 to 2002-03 academic years, five student-athletes (two in football, two in men's basketball and one in baseball) participated in organized practice sessions and/or competed despite not being enrolled in a minimum full-time program of studies leading to a baccalaureate or equivalent degree, as defined by the institution. [Bylaws 14.1.6.1 (1999-00 and 2002-03 NCAA Division I Manuals) and 14.1.6.2.2 (2002-03 NCAA Division I Manual)]
- e. During the 2000-01 academic year, a football student-athlete who was a nonqualifier out of high school, attended a two-year institution [Cerritos College] and graduated with an associate of arts degree in May 2000 before transferring to Alabama State. He was certified as eligible to receive financial aid, and to participate in practice and compete in games even though he had not completed at least 35 percent of the course requirements for his baccalaureate degree program at the institution. [Bylaws 14.5.4.3 (2000-01 NCAA Division I Manual) and 14.5.4.3.1 (2000-01 NCAA Division I Manual)]

- f. During the 2000 fall semester, a football student-athlete who had earned a bachelor's degree from a previous institution and was admitted to Alabama State as a graduate student did not meet the one-time transfer exception since the young man had previously transferred multiple times from four-year institutions. [Bylaw 14.5.5.2.10 (2000-01 NCAA Division I Manual)]

**B-2. IMPERMISSIBLE BENEFITS AND INDUCEMENTS. [NCAA Bylaws 13.2.1 (2000-01 and 2001-02 NCAA Division I Manuals), 13.2.2-(h), 14.5.5.2.10(a) and 16.11.2.1 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

During the summer of 2000 to the end of the 2001-02 academic year, seven football student-athletes and six prospective football student-athletes received impermissible inducements and extra benefits in the form of lodging and utilities and/or meals at no cost to the young men. Institutional policy prohibits the use of academic or athletics grants-in-aid for off-campus housing. Specifically:

- a. During the summer of 2000 through the end of the 2001-02 academic year, five football student-athletes received impermissible inducements and extra benefits in the form of lodging, meals in the institution's cafeteria and utilities (water and electricity) at either a institution-owned, off-campus apartment complex or a institution residence hall at no cost to the young men.
- (1) A football student-athlete ("student-athlete 1") graduated from a Football Bowl Subdivision (FBS) institution on August 14, 2000, was awarded a full athletics grant-in-aid to attend Alabama State and was admitted August 23, 2000. He resided at a institution-owned apartment complex and ate meals in the institution's cafeteria during the 2000 preseason football practice and fall semester at no cost to the young man.
  - (2) A football student-athlete ("student-athlete 2") graduated from a FBS institution on August 14, 2000, and was awarded a full athletics grant-in-aid to attend Alabama State and was admitted August 22, 2000. He resided at a institution-owned apartment complex and ate meals in the institution's cafeteria during the 2000 preseason football practice and fall semester at no cost to the young man.

- (3) A football student-athlete ("student-athlete 3") attended a FBS institution and practiced and/or competed on the football team during the 1998-99 and 1999-00 academic years. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted January 10, 2001. He resided at an institution-owned apartment complex from December 2000 to the end of the 2001 spring semester at no cost to him.
  - (4) A football student-athlete ("student-athlete 4") graduated from a FBS institution on May 21, 2000. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted June 2, 2000. He resided at an institution-owned apartment complex and ate meals in the institution's cafeteria during the 2000 fall semester at no cost to him.
  - (5) A football student-athlete ("student-athlete 5") graduated from high school May 30, 1999, and was classified as a qualifier prior to attending a two-year institution from 1999-01. He was awarded a partial athletics grant-in-aid of tuition and meals to attend Alabama State and was admitted June 19, 2001. He also resided at the institution-owned apartment complex from August 2001 to April 30, 2002, at no cost to him.
- b. During the summer and fall of 2000, three football prospective student-athletes received impermissible inducements in the form of off-campus lodging, utilities and meals.
- (1) The first prospective student-athlete ("prospect 1") attended and competed in football for a FBS institution from August 1997 to January 2000. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted January 8, 2001. However, he arrived in Montgomery five months earlier, on August 14, 2000, and resided in an institution residence hall during preseason football practice and the institution-owned, off-campus apartment complex during the fall semester of the 2000-01 academic year at no cost, despite the fact that he was not allowed to enroll for the fall semester of that academic year. He also consumed meals in the institution's cafeteria during the 2000 preseason football practice and fall semester at no cost.

- (2) The second prospective student-athlete ("prospect 2") graduated from a two-year institution in August 2000 and on August 23, 2000, was awarded a full athletics grant-in-aid to attend Alabama State. Prospect 2 resided in an off-campus apartment complex from June 2000 to August 6, 2000, with two other prospects; ("prospect 3") and ("prospect 4") at no cost to the young man. He also ate two or three meals daily in the institution's cafeteria with the football team during summer workouts at no cost.
  - (3) Prospect 3 graduated from a two-year institution and on August 23, 2000, was awarded a full athletics grant-in-aid to attend Alabama State. He arrived in Montgomery in either June or July 2000 to participate in summer workouts and resided at the off-campus apartment complex. He ate three meals daily in the institution's cafeteria from either June or July to on or about August 6 at no cost to the young man.
- c. A football student-athlete ("student-athlete 6") graduated with an associate of science degree from a two-year institution during the summer of 2000. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted June 7, 2001. He received impermissible extra benefits in the form of lodging and utilities when he resided in an off-campus apartment building owned by an alumnus from early June 2001 to the middle of the 2002 spring semester at no cost to the young man.
- d. During the summer of 2000 to the end of the 2001-02 academic year, members of the football coaching staff arranged for, and/or members of the housing and residential life staff provided, impermissible inducements and extra benefits in the form of lodging and/or meals to three football prospective student-athletes ("prospects 5, 6 and 7" respectively) and one football student-athlete ("student-athlete 7"), at no cost to the young men.
- (1) Football student-athlete 7 did not have an athletics scholarship to attend Alabama State when he enrolled at the institution in mid-January 2001. The former associate head football coach ("former associate head coach") accompanied student-athlete 7 (and his brother) to another student-athlete's dormitory room and arranged for the two brothers to reside in the student-athlete's dormitory room until their housing issues had been resolved. Student-athlete 7 slept on the floor and his brother slept in a bed in the dormitory room for two to three days at no cost to the young men.



- (2) Prospect 5 arrived in Montgomery to participate in the football team's summer workouts in June 2000. The director of football operations at the time ("director of football operations") took prospect 5 to a dormitory room assigned to two football student-athletes and told them that prospect 5 was going to sleep on their couch during summer workouts. Prospect 5 slept in the dormitory rooms assigned to the two student-athletes and that of two other student-athletes, until mid-August, at no cost. Prospect 5 also ate three meals daily in the institution's cafeteria at no cost.
- (3) Prospect 6 arrived in Montgomery in early June 2002 during the evening and was picked up at the Birmingham airport by one of the institution's football coaches, who drove him to a dormitory on campus. The coach requested, and a dormitory attendant agreed, to allow prospect 6 to reside in a dormitory room from Monday to Friday at no cost to the young man. During the summer school session in 2002, prospect 6 consumed approximately five meals in the institution's cafeteria at no cost.
- (4) Prospect 7 arrived in Montgomery in June 2000 on a Saturday evening. The associate head coach paid for the young man to stay two nights at a local hotel. Prospect 7 was permitted to check into a dormitory the following Monday.

**B-3. ACADEMIC FRAUD. [NCAA Bylaws 10.1-(b), 14.01.3 (1999-00 and 2004-05 NCAA Division I Manuals), 14.01.3.2 (2001-02 and 2004-05 NCAA Division I Manuals), 14.4.3.1 and 14.4.3.1.3 (2000-01 NCAA Division I Manual), 14.11.1 and 14.11.4.3 (2000-01 NCAA Division I Manual) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

During the 1999-00 to 2004-05 academic years, an institutional staff member (or staff members) arranged for fraudulent academic credits for eight football student-athletes. Specifically:

- a. During the 1999-00 academic year, an institutional staff member changed a football student-athlete's ("student-athlete 8") incomplete grade to a letter grade in an art course without prior written authorization from the course instructor and institutional administrators.

- b. During the 2000-01 academic year, an institutional staff member changed a football student-athlete's ("student-athlete 9") letter grade of "F" to a "B" in a history course without prior written authorization from the course instructor and institutional administrators.
- c. During the 2000-01 academic year, an institutional staff member changed a football student-athlete's ("student-athlete 10") letter grade of "F" to "B" in a psychology course without prior written authorization from the course instructor and institutional administrators.
- d. During the 2000-01 and 2001-02 academic years, an institutional staff member changed a football student-athlete's ("student-athlete 11") letter grades and an incomplete on numerous occasions in six different courses without prior written authorization from the course instructors and/or institutional administrators.
- e. During the 1999-00 and 2004-05 academic years, an institutional staff member changed a football student-athlete's ("student-athlete 12") two letter grades of "F" to "W" (withdrawal) in two courses without prior written authorization from the faculty members and/or institutional administrators.
- f. During the fall semester of 1999, a football student-athlete ("student-athlete 13") earned a letter grade of "C" in a biology course. On January 14, 2000, an institutional staff member deleted the original letter grade of "C" when he or she entered a "no grade" in the system and then replaced it with a letter grade of "A" without prior written authorization from the biology course instructor and/or institutional administrators.
- g. During the summer of 2001, an institutional staff member changed a football student-athlete's ("student-athlete 15") letter grade earned in the spring of 2001 in a history course on numerous occasions without prior written authorization from the course instructor and/or institutional administrators.
- h. During the 1999-00 and 2001-02 academic years, an institutional staff member changed a football student-athlete's ("student-athlete 14") letter grades in a health course and one other course on numerous occasions without prior written authorization from the course instructors and/or institutional administrators.

**B-4. VIOLATIONS OF RECRUITING AND FINANCIAL AID LEGISLATION RELATING TO FINANCIAL AID AGREEMENTS. [NCAA Bylaws 13.2.1 (2000-01 and 2002-03 NCAA Division I Manuals) and 15.3.2.3 (2002-03 NCAA Division I Manual)]**

During the 1999-00 to 2001-02 academic years, members of the football coaching staff provided 13 football prospective student-athletes with unsigned grant-in-aid agreements. The prospects subsequently arrived on campus and participated in athletically related activities. The football prospective student-athletes received grant-in-aid agreements that were not signed by the director of financial aid prior to the prospects' signatures.

**B-5. EXTRA BENEFITS - IMPERMISSIBLE TELEPHONE CALLS. [NCAA Bylaws 16.11.2.1 and 16.11.2.2 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

During the summer of 2000 to the 2003 fall semester, numerous football student-athletes, including prospect 7 (while a student-athlete), prospect 3 (while a student-athlete) and student-athletes 6 and 7, among others, placed impermissible calls at no cost to the young men by using the institution's long-distance telephone codes.

- a. A football student-athlete knew the institution's long-distance telephone code, which he used once or twice a week to call his mother from September 2000 (around the first football contest) to the end of January 2001. The calls each lasted five to 10 minutes.
- b. An unknown former assistant football coach gave a football student-athlete the institution's long-distance telephone code, which he used to make numerous telephone calls to his family and friends from the football offices. The football student-athlete used the code to call his parents at least four times a week, and they talked 45 minutes to one hour each time.
- c. A football student-athlete gave another football student-athlete the institution's long-distance telephone code, which he used to make numerous calls to his mother and friends from the summer of 2000 to the spring of 2001. The football student-athlete called his mother and friends at least 10 times per week, and they talked for 10 to 15 minutes per call.
- d. A football prospective student-athlete provided a football student-athlete with the institution's long-distance telephone code, which he used once or

twice a week (before and after football practice) from the football team locker room to place five-minute telephone calls to family and friends.

- e. A football student-athlete obtained the institution's long-distance telephone code during the 1999-00 academic year and used it once or twice a day to call his parents, girlfriend and friends. He also used the telephone in a Residence Hall and the weight room (one time) to make his telephone calls, which lasted from one minute to three hours.
- f. A football student-athlete gave another football student-athlete the institution's long-distance telephone code during the 2000 fall semester, and the football student-athlete used the telephone in the players' locker room to make his calls either before or after football practice. He used the code and made 10 to 30 telephone calls, which lasted approximately five minutes, each week to his family and friends.
- g. A football student-athlete gave another football student-athlete the institution's long-distance telephone code, which he used to call his mother one to two times per week. They talked from 15 minutes to one hour from April 2001 to the 2003 fall semester. He also used the telephones in the training or conference rooms.
- h. A football student-athlete gave another football student-athlete the institution's long-distance telephone code, and he used the code while using the telephones located in the football front office, coaches' offices and training room to call home.

**B-7. IMPERMISSIBLE TRANSPORTATION DURING PROSPECTIVE STUDENT-ATHLETES' OFFICIAL VISITS. [NCAA Bylaws 13.5.1 (2002-03 and 2003-04 NCAA Division I Manuals) and 13.7.5.1 (1999-00, 2000-01 and 2003-04 NCAA Division I Manuals)]**

During the 1999-00 to 2003-04 academic years, student hosts transported at least 10 football prospective student-athletes from the institution's campus in Montgomery, Alabama, to Tuskegee, Alabama, during official paid visits. The distance between the institution's campus and Tuskegee exceeds the 30-mile distance from campus for entertainment during official paid visits specified by NCAA recruiting legislation.

**B-8. IMPERMISSIBLE RECRUITING CONTACTS. [NCAA Bylaws 13.02.3 (2001-02 NCAA Division I Manual) and 13.02.4.3 (NOTE: Bylaws cited with**

**no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

While traveling to an away contest in the fall of 2001, members of the football coaching staff made impermissible contact with three prospective student-athletes.

**B-9. RECRUITING VIOLATIONS – IMPERMISSIBLE MEALS AND TRANSPORTATION. [NCAA Bylaws 13.2.1 (2000-01 NCAA Division I Manual), 13.5.1 (2000-01 NCAA Division I Manual), 13.6.1 (2000-01 NCAA Division I Manual) and 13.6.1.1 (2000-01 NCAA Division I Manual) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)**

During the 2001 spring semester, former assistant coach A provided impermissible inducements in the form of transportation and meals at no cost to two football prospective student-athletes ("prospects 8 and 9" respectively), in addition to family members and a friend of prospect 9.

**B-10. RECRUITING VIOLATION – FAILURE TO NOTIFY OF OFFICIAL VISIT LIMITATIONS. [NCAA Bylaw 13.7.1.2.1 (1999-00 and 2001-02 NCAA Division I Manuals)]**

During the 1999-00 to 2001-02 academic years, prior to official paid visits, the institution failed to provide written notification to at least 22 football prospective students of the NCAA five-visit limitation.

**B-11. RECRUITING VIOLATIONS – EXCESSIVE ENTERTAINMENT MONIES. [NCAA Bylaws 13.02.5.1-(e) (1999-00 NCAA Division I Manual) and 13.7.5.5-(a) (1999-00 NCAA Division I Manual)]**

During an official paid visit to the institution on February 4-6, 2000, two football student-athletes received impermissible extra benefits of entertainment money in excess of the amount permitted under NCAA legislation. Specifically:

- a. One football student-athlete was a student host for two prospective student-athletes and received \$120 in entertainment money (an excess of \$30) to entertain the prospects during their official paid visit.
- b. Another football student-athlete was a student host for three prospective student-athletes and received \$180 in entertainment money (an excess of \$60) to entertain the prospects during their official paid visit.

**B-12. RECRUITING VIOLATIONS – IMPERMISSIBLE INDUCEMENTS DURING OFFICIAL AND UNOFFICIAL VISITS. [NCAA Bylaws 13.02.14.2 (2000-01 NCAA Division I Manual), 13.02.14.2.1 (2000-01 NCAA Division I Manual), 13.02.15.1, 13.6.3 (2000-01 NCAA Division I Manual), 13.6.7.4 and 13.7.1.2.1 (2000-01 NCAA Division I Manual) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

During the weekend of February 2-4, 2001, a former assistant football coach ("former assistant coach B") arranged for cost free lodging and meals to be provided to a prospective student-athlete ("prospect 10") in conjunction with the prospect's unofficial visit to the institution's campus. Former assistant coach B also gave the prospect approximately \$30 for mileage. Because this was an unofficial visit by prospect 10, these benefits could not be provided under NCAA legislation. Further, prospect 10's student host provided cash to him and another prospective football student-athlete ("prospect 11") during the visit.

**B-13. RECRUITING VIOLATIONS – EXCEEDING OFFICIAL PAID VISIT TIME LIMITS; PARTICIPATION IN ATHLETICALLY RELATED ACTIVITIES PRIOR TO ADMITTANCE TO INSTITUTION; PROVISION OF IMPERMISSIBLE INDUCEMENTS. IMPERMISSIBLE COMPETITION WHILE INELIGIBLE. [NCAA Bylaws 13.2.1 (2000-01 and 2001-02 NCAA Division I Manuals), 13.2.2-(h), 13.7.2 (2000-01 NCAA Division I Manual), 13.7.2.1 (2000-01 NCAA Division I Manual), 13.12.1 (2000-01 and 2001-02 NCAA Division I Manuals), 14.01.2 (2001-02 NCAA Division I Manual), 14.1.8.1, 14.1.8.1.1, 14.5.1.3, 16.5.1-(b) (2001-02 NCAA Division I Manual), 17.02.1 (2001-02 NCAA Division I Manual) and 17.1.1 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

The institution and members of the football coaching staff failed to comply with the NCAA official paid visit limitation legislation when it permitted the campus visits of prospect 1 and a second football prospective student-athlete ("prospect 13") to exceed 48 hours in August 2000 and July 2001, respectively.

Further, during the 2000-01 to 2001-02 academic years, student-athlete 3 (while a prospect) along with prospects 1 and 13 participated with the football team in athletically related activities on one or more occasions prior to being officially admitted to the institution and/or completing one year in residence after the completion of a disciplinary suspension. In addition, prior to his admission to the institution, prospect 13 received impermissible inducements in the form of

medical services, lodging and meals during the 2001 preseason football practice sessions at no cost to the young man. Finally, on November 3, 2001, prospect 13 competed in one contest despite being below the minimum 12-credit-hour requirement for a full-time student at the institution.

**B-14. PROVISION OF IMPERMISSIBLE RESTAURANT MEALS. [NCAA Bylaws 13.02.15.1 and 13.7.5.5.2 (2001-02 NCAA Division I Manual) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

On December 14, 2001, during an official paid visit to the institution by a football prospective student-athlete ("prospect 14"), a former assistant coach permitted two football student-athletes, who were serving as prospect 6's student hosts, to receive free restaurant meals in violation of NCAA legislation.

**B-15. RECEIPT OF SUPPLEMENTAL OUTSIDE INCOME WITHOUT PRIOR APPROVAL. [NCAA Bylaws 11.2.2 (2000-01 and 2003-04 NCAA Division I Manuals) and 11.3.2.1 (1999-00, 2000-01 and 2007-08 NCAA Division I Manuals)]**

Between January 2000 and December, 2003, members of the institution's football coaching staff received athletically related supplemental income and benefits from various sources outside the institution without obtaining the requisite annual prior written approval.

**B-16. LACK OF INSTITUTIONAL CONTROL. [NCAA Constitution 2.1.1 (2004-05 NCAA Division I Manual), 2.1.2, 2.8.1 and 6.01.1; and NCAA Bylaw 30.3.5 (1999-00, 2003-04 and 2004-05 NCAA Division I Manuals) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

During the 1999-00 to 2002-03 academic years, the institution exhibited a lack of institutional control, primarily over its football program. Specifically:

- a. During the 1999-00 to 2002-03 academic years, the institution failed to provide adequate NCAA rules-education to coaches, student-athletes, faculty, staff and representatives of the institution's athletics interests. [Constitution 2.1.1, 2.8.1 and 6.01.1]
- b. During the 1999-00 to 2002-03 academic years, the institution failed to employ an adequate and consistent procedure for certifying and

monitoring the eligibility of incoming, transfer or continuing student-athletes in that student-athletes were erroneously certified as eligible at times when they were not. As a result of this failure, ineligible student-athletes were improperly permitted to practice and compete, and received athletically related financial aid at the institution, as referenced Findings B-1, B-6 and B-13. [Constitution 2.1.1, 2.8.1 and 6.01.1]

- c. During the 1999-00 to 2002-03 academic years, the institution's compliance failures and lack of institutional control were due to a lack of (1) documentation of compliance-related data and (2) compliance education on a department-wide basis. The failure to adequately document compliance-related data in an organized or systematic fashion increased the likelihood for errors to be made in certifying student-athletes' eligibility and monitoring recruiting and practice activities, as referenced in Findings B-1, B-2, B-6 and B-13. [Constitution 2.1.1, 2.8.1 and 6.01.1]
- d. During the 1999-00 to 2004-05 academic years, an institutional staff member (or staff members) arranged for fraudulent academic credits for numerous football student-athletes when the young men's original letter grades were changed and/or original incomplete grades were removed without such changes being approved by the relevant faculty members and administrators under institutional policy and procedures, as referenced in Finding B-3. These changes were made to ensure that these student-athletes remained academically eligible and resulted in ineligible participation by these student-athletes.
- e. During the 1999-00 to 2002-03 academic years, the institution's compliance staff and athletics administration failed to monitor prospective student-athletes' participation in summer workouts and student-athletes' participation in football practices, winter conditioning activities, spring football and competition, which resulted in ineligible prospective student-athletes and/or student-athletes' participation in these activities, as referenced in Findings B-1, B-6 and B-13.
- f. During the 2000-01 to 2002-03 academic years, the institution failed to monitor annually the athletically related supplemental income and benefits from sources outside the institution, for the former head coach and the former associate head coach, as referenced in Finding B-15.



- g. The institution's previous two directors of athletics, previous three interim directors of athletics, previous faculty athletics representative, previous certification officer; and previous assistant director of athletics for academic services and director of compliance, all had functions related to eligibility certification. However, the ultimate responsibility for the coordination of the certification of student-athletes' eligibility under NCAA initial- and continuing-eligibility rules was vested in the previous certification officer and the previous assistant director of athletics for academic services/director of compliance. Both these individuals started their positions without NCAA rules-compliance training and did not receive comprehensive initial and follow-up training in NCAA progress-toward-degree legislation. Further, no one at the institution -- including the two previous directors of athletics; the three previous interim directors of athletics or the previous faculty athletics representative - had sufficient NCAA rules-compliance training. Consequently, the institution could not adequately monitor the work of the previous certification officer and the previous assistant director of athletics for academic services/compliance for accuracy. This led to violations referenced in Findings B-1, B-6 and B-13. [Constitution 2.1.1, 2.8.1 and 6.01.1]
- h. During the 2001-02 academic year, institutional employees failed to report known violations of NCAA legislation to the institution, NCAA and/or the conference, as referenced in Findings B-2, B-8, B-9, B-10, B-12, B-13, B-14, and B-15.
- i. During the summer of 2000 and through the end of the 2001-02 academic year, the institution provided impermissible inducements and extra benefits to football prospective student-athletes and student-athletes when they received lodging, utilities and/or meals at no cost to the young men, as referenced in Findings B-2, B-9, B-12, B-13 and B-14.
- j. During the summer of 2000 to the 2003 fall semester, numerous football student-athletes used the institution's long-distance telephone codes to place impermissible calls at no cost to the young men as set forth in Finding B-5.

**B-17. FAILURE TO MONITOR BY FORMER HEAD COACH. [NCAA Constitution 2.8.1 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]**

The scope and nature of the violations detailed in Findings B-2, B-4, B-6, B-7, B-8, B-10, B-11, B-13, B-14 and B-15 demonstrates that former head coach failed to monitor his and his staff's activities for NCAA rules compliance and thereby failed to maintain an atmosphere of compliance among his staff and within the intercollegiate football program. Specifically:

- a. From the summer of 2000 to the end of the 2001-02 academic year, members of the football coaching staff were involved in the provision of off-campus and on-campus housing and meals to football prospective student-athletes and student-athletes at no cost to the young men, as referenced in Finding B-2.
- b. During the 1999-00 to 2002-03 academic year, members of the institution's football coaching staff provided 13 football prospective student-athletes with unsigned athletics grant-in-aid agreements, as referenced in Finding B-4.
- c. During the 1999-00 to 2001-02 academic years, two prospective student-athletes and several former ineligible football student-athletes participated in out-of-season athletically related activities conducted by the former strength and conditioning coach. The former strength coach, along with the football coaching staff, also conducted the winter conditioning activities wherein the coaches were assigned different stations during the workouts. At the end of the summer, the strength coach provided recognition and incentive (i.e., T-shirts) to student-athletes for perfect attendance and for reaching certain athletically related achievement during the out-of-season workouts, as referenced in Finding B-6.
- d. During the 1999-00 to 2003-04 academic years, members of the football coaching staff failed to monitor the transportation of football prospective student-athletes outside the 30-mile radius from the institution's campus by student hosts, as referenced in Finding B-7.
- e. On Friday, November 16, 2001, the former head coach, along with members of his football coaching staff, had impermissible in-person contact with three prospective student-athletes and failed to report said impermissible contact, as referenced in Finding B-8.

- f. During August 2000 and July 2001, members of the football coaching staff failed to limit two football prospective student-athletes' official paid visits to 48 hours. Additionally, during the 2000-01 to 2001-02 academic years, members of the football coaching staff permitted (or, at a minimum, failed to implement procedures that prevented) football prospective student-athletes and student-athletes to participate with the football team in athletically related activities prior to being officially admitted to the institution and/or completing one year in residence after the completion of a disciplinary suspension, as referenced in Finding B-13. The former head coach is responsible for assuring that prospects and student-athletes are eligible prior to participation in practice and/or competition.
- g. From January 2000 to December 8, 2003, the former head coach and other members of the football coaching staff received athletically related supplemental income and benefits from various sources outside the institution without obtaining the requisite annual prior written approval from the institution's president and, after August 1, 2001, without providing the requisite annual written detailed account to the president, as referenced in Finding B-15.
- h. On December 14, 2001, during an official paid visit to the institution by a football prospective student-athlete, a former assistant coach permitted two football student-athletes, who were serving as prospect 14's student hosts, to receive free restaurant meals in violation of NCAA legislation, as referenced in Finding B-14.
- i. The former head coach and football coaching staff members were involved in violations of NCAA benefits and recruiting legislation, as referenced in Findings B-6, B-10 and B-11.
- j. There were no self-reports of violations referenced in Findings B-2 and B-8 to the institution by the former head coach or members of his staff.

#### **IV. CORRECTIVE ACTION TAKEN AND PENALTIES (PROPOSED OR SELF-IMPOSED) BY THE UNIVERSITY.**

Alabama State self-imposed penalties and corrective actions. The corrective actions are contained in Appendix Two of the Committee on Infractions Report No. 289. [Please note that the cites below are the cites as they appear in the Committee on Infractions Report No. 289 dated December 10, 2008.]

1. Alabama State has implemented a "transformation plan" in which it will continue to develop and implement a comprehensive educational program on NCAA legislation, including: (a) mandatory attendance for selected staff at NCAA rules compliance seminars; and (b) testing to instruct the football coaching staff, the faculty athletics representative, student hosts, athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, eligibility, retention, financial aid and recruitment. This process was started during the 2003-04 academic year and the institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.
2. The athletics compliance office is: (a) reviewing recruiting legislation with the football coaching staff; (b) providing a recruiting calendar at the beginning of each academic year to each member of the football coaching staff; and (c) posting dead period reminders in the football coaching staff office. The institution began the implementation of this self-corrective measure during a self-imposed probation period (2003-04 and 2004-05 academic years). The institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.
3. The athletics compliance office has started to make unannounced audits of athletics recruiting methods and procedures. The institution began the implementation of this self-corrective measure during its self-imposed probation period (2003-04 and 2004-05 academic years). The institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.
4. The athletics compliance office developed procedures requiring all coaches to submit a report on their day-to-day activities on all off-campus recruiting trips. The institution began the implementation of this self-corrective measure during the 2003-04 and 2004-05 academic years. The institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.
5. The institution shall: (a) hire an additional staff member for the office of student records and registration, who shall serve as the registrar's liaison to the athletics department and chair the athletics eligibility certification team; and (b) conduct a process improvement project concerning the athletics eligibility certification process during the fall 2008 semester that shall designate the registrar's office as the lead department in athletics certification and establish an athletics eligibility certification team. The institution will continue the implementation of this

measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.

6. In 2003 Alabama State declined to renew the former head coach's employment agreement.
7. In 2003 Alabama State declined to renew the employment of former assistant coaches A and B. Furthermore, both were disassociated from the institution's athletics programs.
8. In July 2008, the institution removed the illicit grade changes and restored the student-athletes' original grades (i.e., the grades originally submitted by the respective faculty members) documented in Finding B-3.

#### **V. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.**

The Committee on Infractions imposed additional penalties because of the involvement of the Alabama State University in a number of the violations. The penalty in which Alabama State University was cited was C-1 through C-11 and C-13 through C-16. [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated December 10, 2008.]

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the long period of time it took to complete the case and bring it before the committee. The committee was concerned by the large number of violations and the fact that the institution did not have an effective compliance program for a protracted period of time, which was a significant contributing factor in an admitted lack of institutional control. The committee was also troubled by the fact that this case included academic fraud. Because of these concerns, the committee concluded that a lengthy period of probation was warranted. With regard to the former head coach, the committee was aware that, in 1999, he had appeared before the committee for violations associated with an infractions case at an institution where he had previously been employed as the head football coach. Despite his prior experience with an infractions case, the former head coach failed to take the necessary steps to monitor the Alabama State football program in order to ensure that it remained in compliance with NCAA legislation. The committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] The

penalties in this case are as follows. (The institution's self-imposed penalties are so noted. Due to the length of the investigation, most of the self-imposed penalties have been served.)

1. Public reprimand and censure.
2. Five years of probation beginning December 10, 2008, and terminating on December 9, 2013.
3. The institution's football team shall end its 2009 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition. [Note: The committee formally would have precluded the institution from competing in postseason competition in 2008 but, by the time of issuance of this report, the team already had not qualified for postseason competition in 2008.]
4. The institution limited official paid visits in the football program during the 2003-04 and 2004-05 academic years to 46. [Note: the limit is 56.] (Self-imposed by the institution and adopted by the committee).
5. The institution withheld all football coaches from engaging in recruiting activities for two weeks during the December 1-14, 2003, period. (Self-imposed by the institution and adopted by the committee.)
6. The institution limited the value of financial aid awards (equivalencies) in football to 58.74 during the 2004-05 academic year and 54.11 during the 2005-06 academic year. [Note: The limit for football grants-in-aid at FCS institutions is 63.] (Self-imposed by the institution and adopted by the committee.)
7. The institution limited to 80 the total number of counters in the football program during the 2004-05 and 2005-06 academic years. [Note: The limit for total counters at FCS institutions is 85.] (Self-imposed by the institution and adopted by the committee.)
8. The institution limited the initial counters in the football program during the 2004-05 and 2005-06 academic years to no more than 20. [Note: The

limit for initial counters at FCS institutions is 30.] (Self-imposed by the institution and adopted by the committee.)

9. Due to competition by ineligible student-athletes, the institution forfeited all regular season football contests in the 2000 season and 2001 season. Further, the institution forfeited the 2001 SWAC championship. (Self-imposed by the institution and adopted by the committee. However, consistent with committee policy, the committee treats all contests won by the institution during the 2000 and 2001 seasons as "vacated" rather than "forfeited.")
10. In association with the vacation of all football contests won by the institution in 2000 and 2001, including the SWAC championship in 2001, the institution's records regarding football, as well as the individual records of the ineligible student-athletes shall be vacated. Further, the record of the former head coach, will be reconfigured to reflect the vacated wins and so recorded in all publications in which football records for the affected seasons are reported, including, but not limited to, media guides, recruiting material, electronic media and institutional and NCAA archives. Any public reference to these vacated contests, including the 2001 SWAC football championship, shall be removed from athletics department stationery, banners displayed in public areas and any other forum in which they may appear.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publication and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the specific student-athlete(s) and contest(s) impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than 90 days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process, whichever is later.

11. Due to the academic fraud in this case, and pursuant to Bylaw 19.5.2.7, the NCAA president shall forward a copy of this report to the appropriate regional accrediting agency.

13. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
14. The institution shall initiate a review of its athletics compliance program by a competent, external agency as soon as one can be scheduled. The background and qualifications of the reviewer shall be provided to the committee and the institution shall comply with all recommendations made by the reviewer in a timely fashion. The results of this external review shall be included in the institution's 2009 annual compliance report. If the institution needs assistance or guidance in scheduling the review or finding a qualified reviewer, it should contact the SWAC office or NCAA Membership Services.
15. During the period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by February 1, 2008, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports showing the progress made with this program by September 15 of each year during the five-year probationary period. Particular emphasis should be placed on monitoring of prospective student-athletes who arrive on-campus prior to initial full-time enrollment, grade-changing procedures and an effective program of rules education. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
16. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's



current athletics policies and practices conform to all requirements of NCAA regulations.

#### **VI. ISSUES RAISED ON APPEAL.**

In its written appeal, Alabama State asserted that the penalty C-2 imposed by the Committee on Infractions was excessive such that it constitutes an abuse of discretion. (Bylaws 32.10.4 and 32.10.4.1)

#### **VII. APPELLATE PROCEDURE.**

In considering the Alabama State appeal, the Infractions Appeals Committee reviewed the notice of appeal; the transcript of the institution's August 8, 2008, hearing before the Committee on Infractions and the submissions by Alabama State and the Committee of Infractions referred to in Section II of this report. Additionally, the Infractions Appeals Committee granted Alabama State's request to add the contents of the December 10, 2008, press conference to the record on appeal.

The hearing on the appeal was held by the Infractions Appeals Committee April 25, 2009, in Tucson, Arizona. Alabama State was present and was represented by its attorneys, president, athletics director, and chief operating officer/executive vice-president. The Committee on Infractions was represented by the appeal coordinators for the Committee on Infractions, former chair of the Committee on Infractions and the director of the Infractions Committees. Also present were the executive vice president of membership and student-athlete affairs, vice president of enforcement, director of enforcement, assistant director of enforcement and assistant general counsel of the NCAA. The chair of the NCAA Division II Infractions Appeals Subcommittee attended as an observer. The hearing was conducted in accordance with procedures adopted by the committee pursuant to NCAA legislation.

#### **VIII. INFRACTIONS APPEALS COMMITTEE'S RESOLUTION OF THE ISSUES RAISED ON APPEAL.**

This case involved academic fraud, ineligible competition, recruiting violations and lack of institutional control. These are very serious violations, as the institution recognized and acknowledged. Nevertheless, the institution argued on appeal that the Committee on Infractions' imposition of a five-year probation was "excessive such that it constitutes an abuse of discretion" within the meaning of Bylaw 32.10.4.1. It alleged two errors in the imposition of this penalty: that the Committee on Infractions: (1) considered as an

aggravating factor “the long period of time it took to complete the case and bring it before the committee” (Committee on Infractions Report Page No. 33); and (2) failed to consider the two-year probation that the institution imposed on itself in July 2003.

The abuse-of-discretion standard of Bylaw 32.10.4.1 was adopted by the NCAA in 2008, and the Committee on Infractions and the institution fully briefed the issue in this case. Based on that briefing, as well as this committee’s thorough legal analysis of the issue based on judicial case law, we conclude that an abuse of discretion in the imposition of a penalty occurs if the penalty: (1) was not based on a correct legal standard or was based on a misapprehension of the underlying substantive legal principles; (2) was based on a clearly erroneous factual finding; (3) failed to consider and weigh material factors; (4) was based on a clear error of judgment, such that the imposition was arbitrary, capricious, or irrational; or (5) was based in significant part on one or more irrelevant or improper factors. Applying this analysis to this case, we conclude that imposition of the five-year probation constituted an abuse of discretion.

The Committee on Infractions identified as an aggravating factor the length of time taken to complete the case and bring it to hearing, noting “in particular that for more than two and one-half years, from September 2005 to February 2008, there appeared to be little or no activity in completing the case.” (Committee on Infractions Report Page No. 1) The record does not support this conclusion. In fact, substantial activity occurred during this time:

1. The institution conducted approximately 100 recorded interviews of 90 persons in Alabama and other states;
2. The institution collected, reviewed and analyzed over 50,000 documents;
3. The institution provided the NCAA enforcement staff with responses to multiple requests for information; and
4. The institution completed eligibility certification and academic fraud audits (including a review of all grade changes) of all student-athletes enrolled between 1999-00 and 2003-04. (Committee on Infractions Hearing transcript Page Nos. 74, 86 and 392; Alabama State written appeal Page No. 19).

Because the institution was engaged in an extensive investigation during the period identified by the Committee on Infractions, actively working with the NCAA enforcement staff, aggravating the penalty due to the length of time involved in investigating the case and the perception of inactivity during that period was based on an erroneous factual determination.

In addition, while the Committee on Infractions' decision mentioned that it "considered the institution's self-imposed penalties and corrective actions" (Committee on Infractions Report at 33) , it did not directly address the substance or effect of those self-imposed penalties, and in particular, the institution's two-year probation, which began July 2003. This probation was both public and substantial. It was announced at a public press conference and included the following:

1. Developing and implementing a comprehensive educational program on NCAA legislation, including mandatory attendance for selected staff at NCAA rules compliance seminars and testing for the football coaching staff, the faculty athletics representative, athletics department personnel, student-athlete hosts and all university staff with responsibility for certification of student-athletes for admission, eligibility, retention, financial aid and recruitment.
2. Implementing additional compliance reviews, audits and rules education programs.
3. Review of recruiting legislation with the football coaching staff, providing a recruiting calendar each academic year to the football coaching staff and posting dead period reminders in the football coaching staff office.
4. Implementing unannounced audits of athletics recruiting methods and procedures.
5. Developing procedures requiring coaches to submit reports of daily activities on off-campus recruiting trips.
6. Disassociating a representative of its athletics interests for a one-year period. Identifying and monitoring athletics representatives and providing them with educational material regarding applicable legislation, including legislation on extra benefits.
7. Not renewing the employment of the head football coach and two assistant football coaches.
8. Removing the former athletics compliance officer from his position.
9. Removing the former athletics certification officer from his position.
10. Limiting the number of initial counters in football and the total number of counters during the 2004-05 and 2005-06 academic years.

11. Limiting the financial aid awards in football during the 2004-05 and 2005-06 academic years. (Alabama State written appeal at Tab No. 8).

The Infractions Appeals Committee recognizes that self-imposed probation does not carry with it the public force of probation imposed by the NCAA through a Committee on Infractions decision. In addition, the substantive provisions of self-imposed probation will vary, and there is no inherent process by which an institution's compliance with its terms can be verified or monitored by an external entity. However, in this case, there was widespread public knowledge of the self-imposed probation, its substantive elements were substantial, and the institution reported the status of its compliance with those elements to the NCAA through the enforcement staff and to the Southwestern Athletic Conference. Thus, the self-imposed probation in this case carried with it the same operative elements and substantive deterrent effects as probation imposed by the NCAA, including its availability for use against the institution in recruiting by other institutions. The impact of this self-imposed probation was a material factor that the Committee on Infractions did not appropriately consider and weigh; its failure to do so constitutes an abuse of discretion within the meaning of the test set forth above. This is not to suggest that the Committee on Infractions is obliged to accord every institution credit for self-imposed probation. The specifics, objectives and impacts of self-imposed probation can vary widely from case to case and the Committee on Infractions can properly give probation and other self-imposed penalties the weight they deserve as it formulates its penalties from case to case.

## **IX. CONCLUSION.**

We find that the five-year probation imposed by the Committee on Infractions -- the longest period of probation that has been imposed in any Committee on Infractions case, including cases involving repeat, and double-repeat violators -- constituted an abuse of discretion. It is hereby reduced to a three-year period, ending December 9, 2011.<sup>1</sup>

NCAA Infraction Appeals Committee

Christopher L. Griffin, chair  
Susan Cross Lipnickey  
Noel M. Ragsdale  
David Williams  
Allan A. Ryan Jr.

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<sup>1</sup>Bylaws 19.5.2.1 (a) and 19.5.2.2(b).

# Exhibit 8



## **News Release**

FOR RELEASE:  
Wednesday, June 18, 2008  
3 p.m. Eastern time

CONTACT:  
Josephine R. Potuto, chair  
NCAA Division I  
Committee on Infractions  
University of Nebraska, Lincoln

### **SOUTHEAST MISSOURI STATE UNIVERSITY** **PUBLIC INFRACTIONS REPORT**

#### **A. INTRODUCTION.**

Pursuant to NCAA Bylaw 32.7 (summary disposition) the Committee on Infractions reviewed this case through written submissions during its August and October 2007 hearing weekends. The summary disposition process is used in lieu of a formal, in-person hearing when the NCAA enforcement staff, the member institution and any involved individuals agree to the facts of an infractions case and that those facts constitute major violations. The committee accepted the agreed-upon facts contained in the summary disposition report but decided to impose penalties additional to those proposed by the institution. Neither the institution nor the former head coach agreed to the additional penalties. According to NCAA Bylaw 32.7.1.4.3, the committee could have conducted an expedited in-person hearing on the issue of penalties only, as requested by the institution, had the former head coach also agreed. Instead, he requested a full infractions hearing; that hearing was conducted on April 19, 2008, with both the institution and the former head coach attending.

The case centered on recruiting violations in the women's basketball program, primarily involving impermissible housing and transportation of prospects who moved to the vicinity of the institution in the summer prior to their first full-time enrollment. [Note: the prospects had previously committed to attend the institution.] An additional set of violations involved men's basketball transfer student-athletes. These student-athletes traveled with the team to away competition even though they had not yet satisfied the one-year residency requirement and, therefore, were not allowed to travel with the team. The committee finds that the institution lacked institutional control of its athletics program related to these violations and that the former head coach failed to monitor his program.

As early as 1998 (University of Cincinnati) the committee has warned, repeatedly, of the elevated risk of violations when prospects are on campus prior to their first full-time enrollment. The committee also has emphasized, repeatedly, that institutions have a concomitant heightened obligation to be vigilant in tracking these prospects to assure

compliance with NCAA bylaws. [See Brigham Young University (2008); University of Arkansas (2007); University of West Virginia (2007); University of Kansas (2006); Savannah State University (2006); University of Missouri (2004); University of Wisconsin, Madison (2001); University of Nevada, Las Vegas (2000); University of Arkansas, Little Rock (1999); California State University, Fullerton (1999).] Such heightened vigilance includes: (i) rules education, (ii) procedures in place which are reasonably calculated to track prospects and to assure rules compliance, and (iii) monitoring with follow-through to assure such procedures are followed. Failure to exercise such heightened vigilance demonstrates a lack of institutional control.

In this case, the institution failed to recognize or follow up on "red flags" in the women's basketball program that should have alerted it to the potential for violations. In fall 2003, the institution conducted an internal investigation prompted by rules violations alleged by members of the women's basketball team. During that investigation, the institution learned that women's basketball prospects were living in the vicinity of campus prior to their first full-time enrollment. Thereafter, the institution neither adopted procedures reasonably calculated to assure rules compliance nor monitored the presence of prospects on campus. In July 2004, the institution's then assistant director of athletics for compliance and student services wrote to the director of athletics expressing concern that, among other things, women's basketball prospects were "required" to live in the vicinity of campus during the summer prior to first full-time enrollment. The director of athletics said that he considered this second investigation to be a "continuation" of the 2003 inquiry. Once again the institution neither adopted procedures reasonably calculated to assure rules compliance nor monitored the presence of prospects on campus.

In addition to the lack of institutional control exhibited with regard to women's basketball prospects, the institution also failed to exercise institutional control regarding off-campus recruiting in women's basketball and in team travel in men's basketball. In both instances there were procedures in place; in both instances the institution failed to follow them. Partially as a result, two consequences ensued; 1) the women's basketball coaches committed several secondary violations and 2) the men's basketball coaches permitted three student-athletes to travel with the team when ineligible to do so.

A member of the Ohio Valley Conference, the institution has an enrollment of approximately 9,000 students. The institution sponsors six men's and nine women's intercollegiate sports. This was the institution's third major infractions case. Prior cases occurred in 1998 (men's basketball) and 1979 (men's basketball and men's track).



**B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

**1. RECRUITING VIOLATIONS – IMPERMISSIBLE TRANSPORTATION, HOUSING AND MEALS. [NCAA Bylaws 13.2.1, 13.2.2-(h), 13.2.7, 13.5.1, 13.5.4-(a), 13.11.3.9 and 13.12.1.5]**

During the summers of 2002, 2003, 2004 and 2005, members of the women's basketball program provided impermissible benefits to women's basketball prospects traveling to or living in the vicinity of the institution prior to their first full-time enrollment.

- a. During the summers of 2004 and 2005, seven prospects and the mother of one of them received impermissible automobile transportation from women's basketball managers, women's basketball student-athletes and/or prospective women's basketball student-athletes. The transportation was arranged for by members of the women's basketball coaching staff.
  - (1) In July 2004 a women's basketball student manager ("team manager A") drove a prospect ("prospect 1") to campus from Kansas City, Missouri (356 miles).
  - (2) In August 2004 team manager A drove a prospect ("prospect 2") to campus from Park Hills, Missouri (76 miles).
  - (3) In August 2004 a women's basketball student manager ("team manager B") drove a prospect ("prospect 3") to campus from the Nashville airport (221 miles).
  - (4) In August 2004 team manager B drove the mother of a prospect ("prospect 4") to campus from the St. Louis airport (121 miles). Prospect 4's mother rode in the car when team manager B drove prospect 4 to campus to enroll (permissible transportation).
  - (5) In August 2005, a women's basketball student-athlete ("student-athlete A") drove a prospect ("prospect 5") to campus from the St. Louis airport (121 miles).
  - (6) In July 2005 one prospect ("prospect 6") drove another prospect ("prospect 7") to campus from the St. Louis airport (121 miles).

- (7) In August 2005 an unidentified women's basketball student-athlete drove a prospect ("prospect 8") to campus from the St. Louis airport (121 miles).
  - (8) In August 2005 one prospect ("prospect 9") drove another prospect ("prospect 10") to campus from the St. Louis airport (121 miles).
- b. During the summers of 2003, 2004 and 2005, six prospects lived cost-free in an off-campus house rented by women's basketball student-athletes ("the house"). The house was first rented by members of the women's basketball team in summer 2003. Through academic year 2005 a revolving group of team members rented it. During the summers, prospects also lived in the house. Most of them paid rent; the ones listed below did not. The women's basketball coaching staff knew that on some occasions prospects lived in the house but made no effort to assure that they paid a commensurate share of the rent.
- (1) In August 2003, a prospect ("prospect 11") lived in the house cost-free for three to four days and her mother stayed there cost-free for approximately two days.
  - (2) In July and August 2004, prospect 1 lived in the house cost-free for six to eight weeks.
  - (3) In August 2004, prospect 2 lived in the house cost-free for three to four weeks.
  - (4) In August 2004, prospect 3 lived in the house cost-free for approximately one week.
  - (5) In August 2005, prospects 8 and 10 lived in the house cost-free for approximately one week.
- c. During summer 2004 members of the women's basketball coaching staff provided impermissible transportation to four prospects from the house to venues in the locale.

- (1) In July 2004, an assistant women's basketball coach ("former assistant coach A") drove prospect 1 to purchase a bed and then transported the bed to the house.
  - (2) In August 2004, former assistant coach A drove a prospect ("prospect 12") and student-athlete A (who was a prospect at the time) from the institution's basketball facility to the house (four miles).
  - (3) In August 2004, an assistant women's basketball coach ("former assistant coach B") drove prospect 2 to a gas station and then back to the house (four miles round trip).
- d. During the summers of 2002, 2003, 2004 and 2005, members of the women's basketball coaching staff permitted two prospects to observe or volunteer at women's basketball summer camps and to receive cost free housing and/or meals during the summers of 2002 and 2003.
- [Note: In fall 2003 NCAA membership services staff erroneously advised the institution that it was permissible for prospects to volunteer at camps. As a result, committee findings include as major violations only those involving volunteers who received cost-free housing and/or meals.]
- (1) During summer 2002 a prospect ("prospect 13") received free housing at an institutional residence hall while she worked as a volunteer at a camp.
  - (2) During summer 2003 prospect 11 and her mother received free housing and meals in an institutional residence hall while prospect 11 worked as a volunteer at a camp.
- e. In July and August 2004, former assistant coach A permitted prospect 1 to use his office computer to complete course work for a correspondence course offered by another institution.
- f. During summers 2004 and 2005, prospects engaged in voluntary summer workouts conducted by the institution's strength and conditioning coach even though they neither had signed a National Letter of Intent nor were receiving financial aid to attend summer school. In summer 2004

prospects 2 and 12 and student-athlete A (who was a prospect at the time) engaged in these workouts; in summer 2005 prospects 5, 7 and 9 also engaged in those workouts.

### **Committee Rationale**

The institution and the enforcement staff agreed with the facts in this finding and that major violations of NCAA legislation occurred. It was the institution's position that, standing alone, each violation was secondary but that in the aggregate the violations were major. The committee finds that the violations occurred.

There is no question that these violations are major. There were numerous violations spanning a four-year period. The violations were neither isolated nor inadvertent, they provided more than a minimal recruiting or competitive advantage, and they included significant recruiting inducements or extra benefits. The prospects, including both high-school graduates and junior college transfers, were encouraged by the women's basketball coaches to live in the vicinity of the institution in the summer prior to their first full-time enrollment. Current student-athletes were encouraged to stay on campus. Yet as noted in Finding B-3, neither the coaching staff nor other institutional staff members took proper steps to monitor the activities of the prospects and student-athletes and to ensure that those activities were in compliance with NCAA legislation.

### **2. IMPERMISSIBLE TRAVEL EXPENSES. [NCAA Bylaw 16.8.1.2]**

During the 2004-05 and 2005-06 academic years, three men's basketball student-athletes traveled with the team and received travel expenses even though they were ineligible to compete because they were serving a year of residence. One student-athlete ("student-athlete B") traveled with the team during the 2004-05 academic year (\$1,744.56 in travel expenses). Two others ("student-athletes C and D") traveled with the team during 2005-06. Travel expenses for student-athlete C were \$2,771.25 while those for student-athlete D were 1,842.55.

### **Committee Rationale**

The enforcement staff and the institution agree with the facts of this finding and that violations occurred. However, the institution contended that the violations were secondary; the enforcement staff believed they were major.

The committee finds that the violations occurred and that they are major. The violations involved three student-athletes, occurred on multiple occasions over two academic years, and resulted in extra benefits totaling between \$1700 and \$2800 for each of the student-athletes. The competitive advantage gained was significant – because of the impermissible travel, three student-athletes not only had the opportunity to acclimate to road travel and further integrate in the team, but they also received additional coaching and practice time.

**3. LACK OF INSTITUTIONAL CONTROL; FAILURE TO MONITOR.  
[NCAA Constitution 2.1.1, 2.8.1 and 6.01.1]**

The scope and nature of the violations detailed in Findings B-1, B-2, and C-4 (See Part C of this report, Secondary Violations, #4) demonstrate that the institution lacked institutional control over the conduct, rules compliance, and administration of its athletics program. The scope and nature of the violations detailed in Finding B-1 demonstrate that the former head coach failed to monitor the women's basketball program to assure compliance with all applicable NCAA rules.

**Committee Rationale**

The enforcement staff and the institution agreed as to the facts of this finding and that violations occurred. While the former head coach did not submit a written response to the notice of allegations, he agreed to the facts of this allegation and that violations occurred. The committee finds that the violations occurred.

Institutional Control. As the institution acknowledged, it failed to exercise the heightened vigilance required when prospects are on campus prior to their first full-time enrollment. Notwithstanding the need for heightened vigilance, the institution had no policies to assure monitoring of these prospects. The failure to exercise heightened vigilance occurred; moreover, in the face of warning signs that monitoring was needed. In fall 2003 athletics' administrators received information alleging rules violations in the women's basketball program committed in summer 2003. This information underscored

the fact that prospects were on campus. Even with this information, the athletics department both failed to implement policies or to establish an effective means to monitor the activities of prospects. Then, in July 2004, the institution's then assistant director of athletics for compliance and student services wrote the director of athletics expressing concern that women's basketball prospects were "required" to live in the vicinity of campus during the summer prior to their initial full-time enrollment. Again, at this time, the institution failed to implement policies or to establish an effective means to monitor the activities of prospects.

With regard to off-campus recruiting and team travel, the institution had policies requiring compliance audits and also policies regarding contact and evaluation forms and expense reports. Yet, during the 2002-03 and 2004-05 academic years, the athletics department failed to audit documents pertaining to off-campus recruiting activities, including contact and evaluation forms and expense reports. Similarly, during the 2004-05 and 2005-06 academic years, the athletics department failed to audit team travel documents. Adherence to these established policies might have avoided some of the violations outlined in Findings B-1 and B-2, as well as secondary violations set forth in Finding C.

Failure to Monitor by the Former Head Coach. The former head coach knew that during the summers of 2002, 2003, 2004 and 2005, multiple prospects were in the vicinity of the institution working in summer camps and participating in summer conditioning activities. He failed to monitor their activities or assure that there was a system in place to monitor them. Nor did he exercise his responsibility as head coach to create and maintain an atmosphere for NCAA rules compliance in his program. Coaches, other staff, and student-athletes became involved in violations related to impermissible transportation and other benefits and coaches also engaged in impermissible observations of the prospects' summer workouts. Partly as a result of his failures, the violations outlined in Findings B-1 occurred.

**C. SECONDARY VIOLATIONS SELF-REPORTED BY THE INSTITUTION:  
[NCAA Bylaws 11.5.1, 11.7.4 (2004-05 Manual), 11.7.5.1 (2002-03 Manual), 13.1.2.1,  
13.2.1, 13.6.6.5-(a), 13.8.1, 13.11.1, 13.12.1.5, 16.5.2-(e)-(1), 16.11.2.1, 17.02.13,  
17.1.5.2-(a) and 17.5.6]**

1. During the summers of 2004 and 2005, four prospective student-athletes worked as volunteers at women's basketball summer camps.

2. During the summers of 2003, 2004 and 2005, members of the women's basketball coaching staff, including the former head coach, engaged in limited and brief observations of the on-campus summer activities of women's basketball student-athletes and prospects who had committed to the institution. Additionally, during fall 2004 women's basketball coaches required a women's basketball student-athlete to participate in countable athletically related activities that exceeded the maximum eight hours per week.
3. Between December 21 and December 24, 2005, the former head coach provided three prospects and a current women's basketball student-athlete \$80 to \$120 each in meal money (\$20 to \$30 a day for four days) for the days they spent on campus over Christmas break. Such meal money is permitted only if student-athletes are required – as these were not – to stay on campus for practice or competition.
4. During the 2002-03, 2003-04 and 2004-05 academic years, the following NCAA recruiting violations occurred in the women's basketball program:
  - a. The institution exceeded by one the permissible number of coaches who could recruit off campus on three days in March 2003 and two days in September 2004.
  - b. In October 2004 a women's basketball team manager as well as a friend of an assistant women's basketball coach had impermissible off-campus contact with a prospect while the prospect was driven to campus for her official visit.
  - c. In June 2005 a prospect on an official visit used approximately \$10 of student host money to buy a CD; the women's basketball student-athlete acting as host gave her the money.
5. On March 3 and 4, 2006, a former assistant women's basketball coach, who at the time was a high school coach, kept the scorebook for the team at the Ohio Valley Conference Women's Basketball Tournament. The former assistant coach was provided free admission to the tournament games and sat in the team bench area.

**D. PENALTIES.**

The Committee on Infractions finds that this case involved major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. It also considered the institution's cooperation in the investigation, its proactive investigation once violations were discovered, and the length of time involved in the processing of this case. On the other hand, the committee also noted that the time involved to process the case is an inevitable consequence of the summary disposition process in instances in which the committee does not accept the summary disposition. In addition, the committee took into account the fact that many of the violations involved conduct about which the committee for ten years has warned schools and athletics administrators. Institutional staff members knew that prospects were on campus prior to their first full-time enrollment, and yet twice failed to heed specific warning signs regarding this potential for violations.

The committee accepted all of the penalties proposed by the institution in its summary disposition report. On the basis of that report, the committee initially decided that there should also be imposed a vacation of all wins in women's basketball for the 2002-03 through 2005-06 seasons. After considering the institution's presentation at the April infractions hearing, however, the committee decided that the vacation penalty should include only the 2004-05 and 2005-06 seasons. The committee decided not to impose the vacation penalty in 2002-03 and 2003-04 because of the relatively limited nature of the violations during those years and because the clearest warning signs regarding the potential for violations (including specific concern from the assistant director of athletics for compliance and student services about the presence of prospects on campus during the summer prior to their first full-time enrollment) came in July 2004. After that time, there was little justification for failure to heed the warnings.

Over the past two years the committee has made substantial efforts to articulate and adhere to coherent, consistent standards for imposing a vacation penalty. Those efforts included the appointment of a subcommittee to examine the issue of vacation penalties, three meetings at which subcommittee recommendations were developed, and adoption of a new policy by the full committee in June 2007. That policy, developed with guidance from decisions of the Infractions Appeals Committee, states that while the committee retains discretion to apply (or not apply) the vacation penalty under any circumstances it believes to be appropriate, the likelihood of such a penalty is significantly increased when *any* of the following aggravating factors are present: academic fraud; serious intentional violations; direct involvement of a coach or high-ranking school administrator; a large number of violations; competition while academically ineligible; ineligible competition in a case that includes a finding of failure to monitor or a lack of institutional control; or when vacation or a similar penalty would



be imposed if the underlying violations were secondary. In this case, three of these aggravating factors are present – direct involvement of a coach, a large number of violations, and ineligible competition in a case involving both a failure to monitor and a lack of institutional control. The penalties in this case are as follows (those self-imposed by the institution are so noted):

[Note: The institution's corrective actions are contained in Appendix Two.]

1. Public reprimand and censure.
2. A two-year probationary period effective June 18, 2008, and ending June 17, 2010.
3. A reduction by three in the number of grants-in-aid to be awarded to student-athletes in women's basketball in the 2006-07 academic year (from 15 to 12). (Self-imposed penalty adopted by the committee.)
4. A reduction by five in the number of recruiting days in women's basketball (from 85 to 80) between September 2006 and August 2007. (Self-imposed penalty adopted by the committee.)
5. A prohibition on off-campus recruiting by the former head coach during the July 2006 evaluation period. (Self-imposed penalty adopted by the committee.)
6. Imposition of a financial penalty of approximately \$12,600 (twice the value of the costs associated with the three men's basketball student-athletes who traveled to away games) upon the men's basketball program in the 2006-07 fiscal year. (Self-imposed penalty adopted by the committee.)
7. A reduction in the number of recruiting days in men's basketball from 130 to 125 between September 2006 and August 2007. (Self-imposed penalty adopted by the committee.)
8. Pursuant to NCAA Bylaws 19.5.2.2-(e)-(2) and 31.2.2.3-(b), the institution will vacate all wins in which ineligible student-athletes competed during the 2004-05 and 2005-06 women's basketball seasons. Further, the institution's records regarding women's basketball as well as the record of the former head coach will

be reconfigured to reflect the vacated wins and so recorded in all publications in which women's basketball records for the affected seasons and post season are reported, including, but not limited to, media guides, recruiting material, electronic media and institutional and NCAA archives. Finally, any public reference to these vacated contests, including the institution's appearance in the 2006 NCAA Division I Women's Basketball Tournament, shall be removed from athletics department stationery, banners displayed in public areas and any other forum in which they may appear.

9. During this period of probation, the institution shall:
    - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
    - b. Submit a preliminary report to the office of the Committees on Infractions by August 1, 2008, setting forth a schedule for establishing this compliance and educational program; and
    - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by May 1 of each year during the probationary period. Particular emphasis should be placed on monitoring of prospective student-athletes who arrive on campus prior to full-time enrollment and adherence to established policies and procedures. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
  10. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
  11. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
-

As required by NCAA legislation for any institution involved in a major infractions case, Southeast Missouri State University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, June 18, 2008.

Should Southeast Missouri State University or the involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period, as well as imposing more severe sanctions in this case.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

#### NCAA COMMITTEE ON INFRACTIONS

Paul T. Dee  
Eileen K. Jennings  
Alfred J. Lechner, Jr.  
Edward (Ted) Leland  
Gene A. Marsh  
Andrea (Andi) Myers  
Josephine (Jo) R. Potuto, chair  
Dennis E. Thomas

## **APPENDIX ONE**

### Case Chronology

#### **2003**

Fall – Women's basketball student-athletes reported to athletics administrators possible NCAA rules violations involving coaches' impermissible observations of summer activities. The athletics department self-reported secondary violations involving student-athletes' impermissible use of athletics department laundry facilities and time limits of preseason practice. At this time, the athletics department became aware that several prospects were in the institution's locale the summer prior to their first full-time enrollment.

#### **2004**

Summer – Women's basketball student-athletes and their parents reported additional information to athletics administrators regarding possible NCAA rules violations.

September to December – A recently hired assistant women's basketball coach reported to the director of athletics alleged impermissible recruiting activities in the women's basketball program.

#### **2005**

December – A confidential source reported information to the enforcement staff describing violations in the women's basketball program. The enforcement staff began an independent investigation.

#### **2006**

February – The institution contacted the Ohio Valley Conference and requested assistance regarding accusations made by an assistant coach.

April 10 – The enforcement staff issued a notice of inquiry to the institution.

May 2006 – The institution self-reported a secondary violation involving impermissible benefits provided to a high school coach.

September 15 – The enforcement staff drafted a notice of allegations and provided it to the institution and the former head coach, through a custodial arrangement, for their review. The

enforcement staff, the institution and the former head coach subsequently agreed to process the case using the summary disposition process.

November and December – The former head coach was put on paid administrative leave and subsequently resigned effective December 31.

## **2007**

July 19 – The summary disposition report was provided to the NCAA Division I Committee on Infractions.

August 12 – The summary disposition report was initially reviewed by the committee during its regularly scheduled August meeting.

September 10 – The committee sent a letter to the institution’s president notifying him that the committee planned to revisit the case during its October meeting.

October 9 – The committee decided that additional penalties were appropriate and notified the institution.

October 12 – The institution requested an expedited hearing. The committee scheduled the expedited hearing for December 8, 2007.

December 3 – The former head coach requested a full hearing before the committee.

December 17 – The enforcement staff issued a notice of allegations to the institution and to the former head coach.

## **2008**

February 26 – The institution submitted a response to the notice of allegations.

April 19 – The institution and the former head coach appeared before the NCAA Division I Committee on Infractions.

June 18 – Infractions Report No. 282 was released.

## **APPENDIX TWO**

### Corrective Actions as Listed in the July 19, 2007, Summary Disposition Report.

1. Requested that the conference office conduct an annual compliance audit of certain recruiting documents such as contacts and evaluations, official visit records, etc., in women's basketball. Also requested that the conference office review generally the institution's monitoring of recruiting records in all sports and the means by which it monitors those student-athletes who are ineligible to travel.
2. Included in the new contract of the then head women's basketball coach that: (a) if a major violation is found by the NCAA Committee on Infractions that occurred during a period in which he was the head coach, regardless of whether he is named in the finding, he could be released from his contract; and (b) specific evaluation criteria in the compliance area (e.g., timely submission of monthly reports, attendance at educational sessions) will be part of his performance evaluation.
3. Restructured the assistant director of athletics for compliance and academic services position and reassigned the responsibilities for supervision of the academic services area (.25 full-time employee) to another individual within the athletics department resulting in the compliance position being considered at 1.0 full-time employee. Also, reaffirmed that the compliance assistant position would remain to be funded as .5 full-time employee resulting in those individuals assigned total responsibility in the compliance area as 1.5 full time employee.
4. Developed a Coaches Compliance Manual that all coaches will receive annually.
5. Developed a policy and stated in the Coaches Compliance Manual that prospective student-athletes who wish to reside in Cape Girardeau during the summer must receive prior permission from the director of athletics. All requests for lodging must be forwarded by the head coach on behalf of the prospect to the director, who will only approve such situations in legitimate and/or extraordinary circumstances.
6. Developed a policy to monitor the activities of student-athletes who remain in Cape Girardeau during the summer. All student-athletes who remain in Cape Girardeau must complete a practice chart, which was provided to all coaches, that is forwarded monthly to the compliance office.

7. Developed a recruiting log booklet that allows coaches to quickly log any phone call or contact, whether they are in their office or on the road. The booklet is divided into two sections – one section strictly for phone calls and the other for both contacts and evaluations. The coaches' booklets are reviewed by the compliance office every 30 to 45 days. On a periodic basis, the recruiting booklets are cross-referenced with the institution's cell phone and land line billing statements/call logs.
  
8. Developed a policy that requires all coaches to submit a team travel roster to the compliance office at least 12 hours before departure. The roster is then verified by the assistant athletics director of compliance and filed for documentation purposes. The coaches are allowed to hand deliver or e-mail the roster. After the trip, the assistant athletics director of compliance then reviews all expense reports related to team travel to assure compliance by the coaching staff.

# Exhibit 9





**FLORIDA STATE UNIVERSITY**  
**PUBLIC INFRACTIONS REPORT**  
**MARCH 6, 2009**

**A. INTRODUCTION.**

On October 18, 2008, officials from Florida State University and a former learning specialist ("former learning specialist") in the athletics department, along with her legal counsel, appeared before the NCAA Division I Committee on Infractions to address allegations of NCAA violations at the institution. This case involved three former University Athletics Academic Support Services (AASS) staff members (including the former learning specialist) who gave improper assistance resulting in academic fraud to numerous student-athletes representing multiple sport programs. There were also associated violations relating to the provision of impermissible benefits and a failure to monitor by the institution.

This case was extremely serious because of the large number of student-athletes involved and the fact that academic fraud is considered by the committee to be among the most egregious of NCAA infractions. A significant portion of the academic fraud violations involved a music course that had been offered online to both student-athletes and other students without incident for more than 10 years before its academic integrity was compromised in the fall semester of 2006, resulting in academic fraud occurring during the fall of 2006, the spring of 2007 and the summer of 2007.

In addition to the academic improprieties associated with the online music course, the former learning specialist provided impermissible assistance to at least three student-athletes by typing portions of papers assigned to them. She also provided answers to an online psychology course quiz for a student-athlete by instructing a second student-athlete to complete the quiz on behalf of the student-athlete enrolled in the course. The institution did not contest either the violations associated with the academic improprieties or the failure to monitor its academic support unit. The former learning specialist disputed most of the allegations made against her.

The violations documented in this report can be attributed to two primary factors:

- a. The online exams for the music course were not administered in a structured environment. There was no requirement for a proctor, and the institution acknowledged that the course professor did not have sufficient safeguards in place to prevent students from obtaining exam answers.

- b. Supervision of the AASS by the institution did not occur in a consistent manner. This created an environment which allowed the former learning specialist and other academic support personnel to take actions to violate both NCAA legislation and institutional guidelines.

As stated earlier in this report, the academic improprieties in this case involved a large number of student-athletes across multiple sports specifically, 10 sports (football, baseball, men's track and field, women's track and field, men's swimming, women's swimming, men's basketball, women's basketball, softball and men's golf). Ultimately, 61 student-athletes went through the NCAA's reinstatement process. The institution believed it was likely that more student-athletes received improper assistance in the online music course, but concluded that the evidence to substantiate this belief was circumstantial and inconclusive.

Reinstatement was processed in two components. The first group was composed of 22 student-athletes. Of this first group of student-athletes, the NCAA's Student-Athlete Reinstatement (SAR) staff initially ruled that four student-athletes would be withheld from 40-percent of a season of competition, one would receive a 50-percent withholding, and 15 would be withheld from a full season of competition, all with no further loss of eligibility. (**Note 1:** One student-athlete withdrew from the institution and the SAR staff was awaiting information on the remaining student-athlete. **Note 2:** SAR guidelines in effect at the time of the violations specified that the minimum reinstatement condition for a student-athlete who committed academic fraud was to lose a year of eligibility and also to be withheld from a year of competition.)

As part of the discussions about the SAR staff's initial decision, the SAR staff indicated that it would reconsider the penalty if information showed that culpability for the violations primarily rested with the institution and not the student-athlete. Because the institution strongly believed that its processes and personnel were primarily responsible for the improper assistance, it submitted additional information on that issue, suggesting that a 30-percent withholding penalty would be appropriate because the culpability for the violations centered on the institution.

In late November 2007, the SAR staff advised the institution that it accepted the institution's suggested 30-percent withholding penalty, with the understanding that the 30-percent penalty was available only to those student-athletes who previously had been forthcoming and those who came forward in the immediate future. The institution agreed to meet individually with all student-athletes with remaining eligibility who had taken the course to inform them of this opportunity and to advise them that the opportunity would be withdrawn if truthful information was not provided during that interview. Ultimately, an additional 39 student-athletes acknowledged receiving improper assistance in the

online music course. This group of 39 student-athletes was forwarded to the SAR staff as the second submission for restoration of eligibility. In the end, the 61 student-athletes who went through the eligibility restoration process were withheld from 30-percent of their respective sports' competition beginning in December 2007 and continuing into the 2008-09 academic year.

A member of the Atlantic Coast Conference, Florida State University has a total enrollment of approximately 41,000 students and sponsors nine men's and 10 women's intercollegiate sports. This was the institution's seventh major infractions case; its most recent appearance before the committee was in 1996 for a case involving the football program. The institution also had infractions cases in 1984 (football); 1983 (men's basketball); 1974 (football); 1970 (men's basketball); and in 1968 (men's basketball).

## **B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **1. UNETHICAL CONDUCT – ACADEMIC FRAUD AND REFUSAL TO PROVIDE INFORMATION; EXTRA BENEFITS. [NCAA Bylaws 10.1-(a), 10.1-(b), 16.01.1, 16.02.3, 16.3.1.1.1-(a), 16.11.2.1 and 32.1.4]**

During the 2004-05 through 2006-07 academic years, the former learning specialist, a former tutor for athletics ("former tutor") and a former academic advisor ("former academic advisor") failed to deport themselves with the generally recognized standards normally associated with the conduct and administration of intercollegiate athletics and violated the provisions of ethical conduct when they knowingly arranged for fraudulent academic credit for numerous student-athletes and provided improper academic assistance.

Further, in the fall of 2007, the former academic advisor refused to cooperate with the investigation and thus violated another provision of NCAA ethical conduct legislation as well as the cooperative principle.

As a result of the academic improprieties perpetrated by the three staff members, 61 student-athletes also violated the provisions of ethical conduct, and several student-athletes represented the institution in intercollegiate athletics competition at a time they were ineligible to do so. Specifically:

- a. On or about March 23, 2007, the former learning specialist provided correct answers for an online Sports Psychology (PET-4214) quiz to a men's basketball student-athlete ("student-athlete 1") and requested that student-athlete 1 enter the answers onto an online exam form on behalf of another men's basketball student-athlete ("student-athlete 2"). Student-

athlete 1 submitted the answers for student-athlete 2 at the request of the former learning specialist even though student-athlete 1 was not enrolled in the sports psychology class, and student-athlete 2 was not aware of this action by student-athlete 1.

- b. Prior to the 2005-06 academic year, the former learning specialist created a so-called study guide, contained in a three-ring binder (hereafter, "the binder") which contained previous exam questions for the Music Cultures of the World (MUH-2051) online course. In the fall of 2006, the former learning specialist asked the former tutor to review all the test answers in the binder to ensure all answers were correct. The former tutor did as requested. The amended binder contained questions and correct answers taken from the previous exams of the online course, which served as a "bank" of questions and answers from which all the questions and answers were randomly selected for subsequent exams. Between the fall of 2006 and the spring of 2007, the former learning specialist maintained the binder in her office and provided it to student-athletes upon request. She allowed them to use binder while they were taking exams in the course, even though the instructions from the online course stated that the exam was not to be taken using course texts or supplemental study guides. The binder was used by at least five student-athletes (one softball, two men's track and field and two football) when taking an exam for the online music course.

Additionally, during the exam, the former learning specialist provided at least one student-athlete (football) with the correct answers to some of the online exam questions for the music course. In total, the former learning specialist provided at least six student-athletes with either (1) the correct answers to the online exams, or (2) permitted the student-athletes to use her binder while taking their exams, in violation of the instructions from the online course instructor.

- c. During the 2004-05 through 2006-07 academic years, the former learning specialist provided improper typing assistance on her word processor for at least three student-athletes. Specifically, the former learning specialist typed portions of the papers of the student-athletes who she believed had learning disabilities. Such assistance was not available to other student-athletes at the AASS facility, and institutional policy required that any accommodations to students with disabilities be provided through the Student Disability Resource Center (SDRC).

- d. During the 2006-07 academic year, the former tutor arranged for 55 student-athletes who were enrolled in the MUH-2051 course to receive fraudulent academic credit when he provided student-athletes with answers to online exam questions or assisted them in correctly answering the online exam questions.
- e. During the 2006-07 academic year, the former academic advisor instructed the former tutor to provide answers to exam questions for student-athletes who were enrolled in the online music course. The former academic advisor also instructed at least seven track and field student-athletes (both men's and women's track and field) to be present in either the computer lab or tutorial rooms within the AASS area at a time when he knew the former tutor would be present to provide the student-athletes with correct answers for the MUH-2051 online exams. The former academic advisor advised the student-athletes that the assistance the former tutor provided was permissible.

### **Committee Rationale**

The institution and the enforcement staff were in substantial agreement regarding the facts of Findings B-1-a through B-1-e and that these facts constituted violations of NCAA legislation. The former learning specialist disagrees that she violated NCAA bylaws relating to ethical conduct and extra benefits. Neither the former tutor nor the former academic advisor submitted written responses to the notice of allegations and the former academic advisor refused to cooperate with the investigation. The committee finds that the violations occurred and that they are major.

### **Finding B-1-a**

Concerning Finding B-1-a, the facts of this finding were not in dispute. The former learning specialist agreed with the facts and acknowledged that she "made a mistake" when she requested that student-athlete 1 input answers to a quiz in an online Sports Psychology course on behalf of student-athlete 2. She contended, however, that her actions did not rise to the level of academic fraud because there was no motive on her part to provide correct answers on behalf of student-athlete 2.

The committee concludes that the former learning specialist's actions rose to the level of academic fraud. She logged into student-athlete 2's online academic account to determine whether he had completed his exam that was due that day. (Note: It was common practice in AASS for student-athletes to provide academic advisors with their user names and passwords for their online academic accounts.) When the former learning specialist observed that student-athlete 2 had not completed the exam, she

attempted to call him. When she failed to reach the young man, she asked student-athlete 1 to input the answers on behalf of student-athlete 2 so that student-athlete 2 would not fail the quiz. Student-athlete 1 completed the quiz, answering all of the questions correctly. Student-athlete 2 was fraudulently credited with 10 out of 10 points on the quiz.

In support of its conclusion that the former learning specialist committed academic fraud, the committee notes that the NCAA Division I Academic/Eligibility Compliance Cabinet Subcommittee on Legislative Interpretations issued an official interpretation dated September 6, 2000, that states, in relevant part:

The subcommittee reviewed the application of Bylaw 10.1-(b) as it relates to academic fraud and agreed that the following guidelines generally should be used in determining whether an incident of academic fraud should be reported to the NCAA as a violation of Bylaw 10.1-(b) or should be handled exclusively at the institutional level in accordance with its policies applicable to all students.

The subcommittee confirmed that an institution is required to report a violation of Bylaw 10.1-(b) any time an institutional staff member (e.g., coach, professor, tutor, teaching assistant) is knowingly involved in arranging fraudulent academic credit or false transcripts for a prospective or enrolled student-athlete, regardless of whether the institutional staff member acted alone or in concert with the prospective or enrolled student-athlete.

#### **Finding B-1-b**

Concerning Finding B-1-b, the institution and the enforcement staff agreed that the former learning specialist developed a so called "study guide" which contained answers to questions for the online music course exams and that the binder was used by several student-athletes to obtain answers in completing the exams. The institution could not confirm that in every instance a student-athlete used the binder, when taking the online music exams or that a student athlete obtained it directly from the former learning specialist. However, the institution agreed that the former learning specialist's involvement with the use of the binder violated NCAA ethical-conduct legislation. The institution and the enforcement staff agreed that the former learning specialist provided correct answers to at least one student-athlete on his online music course exams.

The former learning specialist acknowledged that she kept the binder for the online music course in her office, to which student-athletes had access, but she denied that she expressly permitted student-athletes to use the binder during their exams.

The so-called study guide consisted of a three-ring binder which contained past exams as well as various reference materials from the course textbook and workbook. The former learning specialist acknowledged that she asked the former tutor, who had an excellent command of the subject matter, for correct answers to exam questions. Over time, all the answers to all of the exam questions were accumulated in the binder/study guide.

Five student-athletes reported that they used the information contained in the binder while taking the online exams in the music course. They reported the following information relative to use of the binder/study guide:

- Student-athlete 3, who took the online music course in the fall of 2006, reported that while she did not work directly with the former learning specialist, she used the binder on the exams.
- Student-athlete 4, who took the music course in the spring of 2007, reported that he used the binder on all the tests and that he obtained the binder from the former learning specialist. Student-athlete 4 recalled waiting to receive it from her.
- Student-athlete 5, who took the music course in the fall of 2006, reported that he used the binder to study for the first test. Student-athlete 5 also recalled that the binder had five examples of tests for the first exam and that one of the five was identical to the first test. For the remaining tests, he used the binder.
- Student-athlete 6, who took the music course in the fall of 2006, reported that the binder was on a table in one of the tutorial rooms in the AASS building and he used the binder for his exams.
- Student-athlete 7, who took the music course in the fall of 2006, reported that the former academic advisor told him that the binder was located outside of the learning specialist's office and had copies of old exams. He used the binder during the exams.

The committee concludes that academic fraud in the online music course was facilitated by the flawed process for administering the course exams. The online exams for the music course were not administered in a structured environment. There was no requirement for a proctor, and the institution acknowledged that there were insufficient safeguards in place to prevent students from obtaining exam answers. The professor who created the online music course reported that he taught the course for many years except during the spring and summer of 2006 when he was on sabbatical. Two other faculty members assumed the responsibility for teaching the course during the time the professor was on sabbatical. During this period, online exams were allowed to be completed open-

book. The professor reported that while he was teaching the course, there was no question that the course had a closed-book exam format. The online page instructional sheet that accompanied the exam stated clearly that the exams were closed-book, and no notes and no assistance of any kind were permitted.

While the exams had a time limit once they were open, they were available for approximately one week from any location. The students could print them off after the student took the exam, although the printed exams did not include the student's answers. Further, the course exam questions did not change from semester to semester. As stated earlier in this report, examinations were created from a limited pool of questions, and numerous copies of previous exams were available on campus. Previous examinations, as well as the answers to the questions on these examinations, were collected in the study guide/binder described above and maintained in the AASS area.

At the hearing the institution was questioned about how online tests were administered in the AASS and how it viewed the involvement of tutors with student-athletes in the completion of examinations. The following exchange occurred:

**COMMITTEE MEMBER:** Tutors sitting down and working on graded assignments is a very different thing, whether you want to say it is open book or not. (Former director of AASS), tell me about taking tests in the athletic academic center. Is there a room set apart when they are taking online tests, or are they out in wherever the students are anywhere?

**FORMER DIRECTOR OF AASS:** The structure was supposed to be where the student would check in at the front desk. Our tutorial coordinator would assign them to a room, and they would be assigned to a specific room for testing...

**COMMITTEE MEMBER:** But you would have to sign in saying I want to take an online test, or do you just sign in to say I want a room to study in? What would you be telling (the tutorial coordinator)?

**FORMER DIRECTOR OF AASS:** The student would be telling (the tutorial coordinator) "I am scheduled to take my test today, and I need a room to take the test." Then what our students were doing, were supposed to be doing, were coming into the facility. If they were meeting with the tutor prior to taking the test, they would meet with the tutor for an hour before, review the materials, be prepared for the test, and then walk away from the tutor and go in and take their test.

**COMMITTEE MEMBER:** Did you have any policy about tutors assisting on graded assignments?



**FORMER DIRECTOR OF AASS:** We did, very much so. The first time I heard that a tutor was in a room with a student during the testing process was through our internal auditors in October '07.

**COMMITTEE MEMBER:** But that says you were surprised to find that it happened. It doesn't say you had a policy in place in advance.

**FORMER DIRECTOR OF AASS:** My answer to (the tutorial coordinator), when I heard that, was "how on earth would we even assume that we would ever let a tutor in a room with a student while they are testing?"

**COMMITTEE MEMBER:** Were there written policies that said tutors may not assist on graded assignments?

**FORMER DIRECTOR OF AASS:** I don't know if that was addressed in our tutorial manual or not. It was understood in our program that students were not to be with tutors while they are testing.

**COMMITTEE MEMBER:** To the institution, is there anybody here today representing the institution who can state that it was appropriate for (the former learning specialist), or any tutor, to assist the students in a graded exercise, be it a test or a paper? Does the silence mean no?

**UNIVERSITY PROVOST:** No.

**COMMITTEE MEMBER:** Is there anybody there prior to this audit with knowledge of a tutor or (the former learning specialist) assisting a student in a graded exercise?

**FORMER DIRECTOR OF AASS:** There was no knowledge on my part, no...

**UNIVERSITY PROVOST:** No knowledge that I was aware of.

**COMMITTEE MEMBER:** From the institution's point of view, what is wrong with that, a tutor or (the former learning specialist) assisting a student in a graded exercise?

**UNIVERSITY PROVOST:** It is not the student's work. You are evaluating someone else's work, not the student's.

The written policies pertaining to the administration and testing in the online music course and the institution's policies in general with regard to the testing, contrasted sharply with the manner in which the former learning specialist viewed the administration of this course. Although the former learning specialist denied that she

provided any student-athletes with answers to test questions during an exam, she reported that, in her estimation, the class was very open and "student-friendly" until some point in 2007. During the time in which the course exams were administered in an open-book fashion, the former learning specialist believed she could help a student-athlete who was taking an exam. She viewed giving a student-athlete answers to exam questions the same as serving as a resource to the student-athletes if they needed assistance with the exams. She also believed there were no parameters or restrictions placed on students while taking exams for this course.

Her view of the course and how she could help student-athletes was confirmed by a football student-athlete who took the course in the spring of 2007. In this instance, the student-athlete ("student-athlete 8") reported that the former learning specialist provided him with answers on his music exams and when he got "stuck," the former learning specialist would lead him in the "right direction." This practice was also confirmed by the former tutor who reported that in the fall of 2006, the former learning specialist asked him for answers to the questions for the online music exam. As he answered the questions, the former learning specialist gave the answers that he provided to a student-athlete who was with her taking the exam. The former tutor stated that he also witnessed the same student entering the answers on the computer.

During the hearing, the former learning specialist was questioned regarding her views of how she could assist a student-athlete with examinations associated with the online music course.

**COMMITTEE MEMBER:** You see no difference, Doctor, in the preparation with a tutor and then the tutor assisting in a graded exercise?

**FORMER LEARNING SPECIALIST:** If the class allowed for a tutor to be with them in an exercise, I see no difference.

**COMMITTEE MEMBER:** Do you know of one class, one professor, one example where the professor said to a student, individually, or class-wise, that you can take this test with the assistance of another person, a tutor, you or somebody else?

**FORMER LEARNING SPECIALIST:** In the music class, when it said open book, and the way the music class was structured, there was no restrictions placed on whether or not the students could use resources that were available to them, including a tutor, to help them prior to the class changes.

**COMMITTEE MEMBER:** Does the institution have any position other than what I understand to be that it would be objectionable, unethical, to have an assistant during the time of an exam?

**UNIVERSITY PROVOST:** It would be unethical and unacceptable.

**Finding B-1-c**

Concerning Finding B-1-c, it was originally alleged that the former learning specialist violated NCAA legislation by "editing" and typing portions of papers. The former learning specialist acknowledged that she typed handwritten "draft papers" on her word processor, but did not believe that this assistance violated NCAA legislation. The former learning specialist contended that, as a learning specialist, her job was to assess the needs of learning-disabled student-athletes and implement learning programs designed to assist learning disabled student-athletes with their learning deficiencies. The student-athletes whom she assisted had the kind of disabilities that required her assistance and, as stated in her response to the allegation, "us(ing) a word processor instead of a pen or pencil to aid in the development of a student's outline" was, in her view, permissible under the circumstances.

After reviewing the information pertaining to this allegation, the committee finds that there was insufficient evidence to support a finding that the former learning specialist "edited" academic papers on behalf of student-athletes. Rather, the committee concludes that the improper assistance provided by the former learning specialist was limited to the typing of papers, or portions of papers, for student-athletes, an impermissible extra benefit. The institution agreed that an extra benefit had been provided, but concluded that academic fraud did not occur. The committee notes that AASS staff members observed the former learning specialist at a computer typing papers with student-athletes. As stated in the text of Finding B-1-c, the SDRC was the only entity on the institution's campus that had the authority to provide accommodations, to include typing, for students with disabilities.

**Finding B-1-d**

Concerning Finding B-1-d, the former tutor acknowledged that he provided answers to 55 student-athletes who were taking the MUH-2051 online course during the 2006-07 academic year.

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**Finding B-1-e**

Concerning Finding B-1-e, the former academic advisor instructed the former tutor to provide answers to exam questions for student-athletes who were enrolled in the online

music course, the institution believed that there was insufficient information to conclude that the former academic advisor instructed the former tutor to provide answers. However, the committee notes that seven student-athletes reported that the former academic advisor told them to either work with the former tutor or that the tutor would help them with the online music course exams. Moreover, the former tutor reported that the former academic advisor instructed him to provide answers to student-athletes during the taking of the exam for the online music course.

The former academic advisor also instructed at least seven student-athletes to be present in either the computer lab or tutorial rooms within the AASS area at a time when he knew the former tutor would be present to provide the student-athletes with correct answers for the music course's online exams.

The committee concludes that the information reported by seven student-athletes and the former tutor was credible. All seven of the student-athletes were student-athletes for whom the former academic advisor had responsibility. In addition, all of them received either an A or a B in the course when they originally took it. [Note: In the spring of 2008 all 61 student-athletes who had remaining eligibility were required to retake the course after the academic fraud was discovered. Of these 61 student-athletes who retook the course, two received the same or an improved grade, while the remaining 59 received a lesser grade.]

The committee concludes that the former academic advisor directed the student-athletes to seek the former tutor because the former academic advisor knew that the former tutor was providing answers to the online music course exams. In doing so, the former academic advisor violated the principles of ethical conduct.

Further, despite repeated requests by both the institution and the enforcement staff to interview him, the former academic advisor refused to speak to investigators and therefore did not respond to the allegations made against him. Moreover, after the hearing, the committee sent a letter to the former academic advisor informing him of the committee's decision to charge him with a failure to cooperate and providing him an opportunity to respond. No response was received to this letter. As a result, the committee alleged, and ultimately found that, in addition to academic fraud, the former academic advisor also violated ethical conduct legislation by refusing to furnish information relevant to the investigation and, further, violated the cooperative principle. Specifically:

- On September 27, 2007, the former academic advisor refused a request by the institution's outside consultant to meet for an in-person interview.

- In the fall of 2007, the former academic advisor did not respond to requests for an interview made by the institution's legal counsel.
- On November 7, 8 and 9, 2007, the enforcement staff left telephone messages with the former academic advisor requesting a meeting to discuss matters pertaining to the case. The former academic advisor did not respond.
- On November 20, 2007, the enforcement staff made a written request of the former academic advisor to interview with the enforcement staff and the institution. The former academic advisor refused to participate.
- On February 20, 2008, the enforcement staff sent a letter to the former academic advisor again requesting an interview. No response to the letter was received.
- Via a January 8, 2009, letter, the committee informed the former academic advisor that it was alleging unethical conduct and a failure to cooperate against him due to above cited instances when he either refused to meet with investigators or did not respond to attempts to interview him. The committee provided the former academic advisor an opportunity to respond to the allegation. No response was received.

This lack of cooperation by the former academic advisor violated both NCAA ethical conduct legislation and the principle of cooperation.

## **2. FAILURE TO MONITOR. [NCAA Constitution 2.8.1]**

The scope and nature of the violations detailed in this report demonstrates that the institution failed to monitor certain aspects of its AASS program. Specifically, the institution failed to (a) detect that the AASS director did not sufficiently review or forward to the institution's NCAA compliance staff information available to him concerning potential violations of NCAA legislation involving the former learning specialist; (b) monitor the AASS area to ensure that the Music Cultures of the World (MUH-2051) exams were taken in an appropriate, structured environment; (c) detect that the AASS area operated contrary to its policies when the former learning specialist and the former tutor were permitted to be present when student-athletes took online exams for the online music course and (d) review a contemporaneous report generated by the registrar's office for the 2006-07 academic year, which reflected that the grades obtained by student-athletes in the MUH-2051 course were higher on average than grades obtained by nonstudent-athletes in this course.

### **Committee Rationale**

The institution and the enforcement staff were in substantial agreement as to the facts of this finding and that violations of NCAA legislation occurred. The committee finds that the violation occurred and it is major.

### **C. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions finds that this case involves several major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] Further, the committee considered the institution's cooperation in this case. It determined that the cooperation exhibited by the institution met its obligation under Bylaw 32.1.4, Cooperative Principle, which requires member institutions to cooperate in investigations.

As stated in the introduction of this report, academic fraud is among the most egregious of NCAA violations. The committee was concerned with the large number of student-athletes involved in the fraud and especially by the fact that individuals within the institution's AASS unit were involved. The committee was further troubled by the fact that there were warning signs indicating that academic improprieties were taking place, but these warning signs were, for the most part, ignored. The committee imposes the following penalties (the institution's self-imposed penalties are so noted):

1. Public reprimand and censure.
2. Four years of probation commencing March 6, 2009, and concluding March 5, 2013. (The institution placed the institution's athletics program on probation for a period of two years, beginning on February 13, 2008).
3. Limits in the number of grant-in-aids in football, men's and women's basketball, men's and women's swimming, men's and women's track and field, baseball, softball and men's golf. The committee assessed the limitations in grants-in-aid to be imposed in each sport by focusing on the number of student-athletes found to have committed violations. The decision as to the scope of the reductions was affected by the fact that there was ineligible participation and the violations clearly warranted a vacation penalty. Had no vacation penalty been imposed, the scholarship limitations would have been more stringent. The following grant limitations were imposed:

- Football: Limit to 83 total grants in 2008-09, 82 in 2009-10 and 84 in 2010-11. [**Note 1**: The maximum allowed under NCAA legislation is 85. **Note 2**: for 2008-09, the institution self-imposed two grant reductions from the maximum allowed (=83) and will self-impose three reductions for 2009-10 (=82). The committee imposed an additional reduction of one grant from the maximum in 2010-11 (=84). **Note 3**: The institution averaged 84.25 total grants the previous 4 years.]
- Men's Basketball: Limit to 12 total grants in 2008-09 and 12 in either 2009-10 or 2010-11. [Note 1: The maximum allowed under NCAA legislation is 13. **Note 2**: for 2008-09 the institution self-imposed a reduction of one from the maximum allowed (=12). The committee imposed an additional reduction of 1 grant from the maximum to be taken in either the 2009-10 or 2010-11 academic years, at the university's discretion.] **Note 3**: The institution averaged 11.75 grants the previous four years.]
- Women's Basketball: Limit to 13 grants in 2008-09. The committee imposed an additional limitation of 13 grants to be taken in either the 2009-10 or 2010-11 academic years at the university's discretion. [**Note 1**: the maximum allowed is 15. **Note 2**: The institution averaged 13 grants in women's basketball the previous four years.]
- Baseball: Limit to 11.33 grants in 2008-09. [**Note 1**: the maximum allowed is 11.7. **Note 2**: The university averaged 11.69 grants the previous four years.] (Institution imposed)
- Men's Swimming: Limit to 9.1 grants in 2008-09. [**Note 1**: The maximum allowed is 9.9. **Note 2**: The institution averaged 9.82 grants the previous four years.] (Institution imposed)
- Women's Swimming: Limit to 12.8 grants in 2008-09. The committee imposed an additional limitation to 12 grants to be imposed in either the 2009-10 or 2010-11 academic years, at the university's discretion. [**Note 1**: The maximum allowed is 14. **Note 2**: The institution averaged 12.93 grants the previous four years.]
- Men's Track and Field: Limit to 12.1 grants in 2008-09. [**Note 1**: The maximum allowed is 12.6. **Note 2**: The institution averaged 12.58 grants the previous four years] (Institution imposed)

- Women's Track and Field: Limit to 17.32 grants in 2008-09. [**Note 1**: The maximum allowed is 18. **Note 2**: The institution averaged 17.97 grants the previous four years.] (Institution imposed)
  - Softball: Limit to 11 grants in 2008-09 and 11.95 in 2009-10. [**Note 1**: The maximum allowed is 12. **Note 2**: The institution averaged 11.81 grants the previous four years.] (Institution imposed)
  - Men's Golf: Limit to 4.36 grants in 2008-09. [**Note 1**: The maximum allowed is 4.5. **Note 2**: The institution averaged 4.45 grants the previous four years.] (Institution imposed)
4. The violations in this case involve all the factors identified by the committee as particularly relevant to imposition of a vacation penalty in a major case: there were a large number of violations – the violations were committed by a minimum of 61 student-athletes in 10 separate sports; the violations were serious and intentional; student-athletes competed while academically ineligible; there was a finding of institutional failure to monitor; there was wide-spread academic fraud; the academic fraud was perpetrated purposefully by three different individuals in the institution's academic athletic support services, including the former learning specialist. Their culpability was especially egregious as they were among the institutional staff members with particular responsibility to maintain academic integrity; their conduct resulted in unethical conduct findings against each of them. The institution evaluated its processes and staff culpability and concluded that it had prime responsibility for the academic fraud. Pursuant to NCAA Bylaws 19.5.2.2-(e)-(2) and 31.2.2.3-(b), the institution will vacate all wins in which the 61 student-athletes in the sports of football, men's and women's basketball, men's and women's swimming, men's and women's track, baseball, softball and men's golf competed while ineligible during 2006 and 2007. This includes regular season contests, post-season contests and any NCAA championship competition. The individual records of the student-athletes shall be vacated as well. Further, the institution's records regarding all of the involved sports, as well as the records of the head coaches of those sports will reflect the vacated records and will be recorded in all publications in which these records are reported, including, but not limited to, institution media guides, recruiting material, electronic and digital media plus institution and NCAA archives. Any public reference to tournament performances won during this time shall be removed, including, but not limited to, athletics department stationery and banners displayed in public areas such as the venues in which the specified teams compete. Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publication and archives, the sports information director (or other designee as assigned by the



director of athletics) must contact the NCAA director of statistics to identify the specific student-athlete(s) and contest(s) impacted by the penalties. In addition, the institution must provide a written report to the NCAA statistics department detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than 90 days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process.

5. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
6. Due to the widespread academic fraud in this case, and in accordance with Bylaw 19.5.2.7, the NCAA will forward a copy of the public infractions report to the appropriate regional accrediting agency.
7. Because of the former learning specialist's involvement in the academic fraud set forth in this report, any NCAA institution which employs her during a four-year period commencing with the date of this report (March 6, 2009) shall, pursuant to the provisions of Bylaw 19.5.2.2-(1), show cause why it should not be penalized if it does not restrict the former learning specialist from having any contact with student-athletes. This restriction shall remain in effect until March 5, 2013. Further, any institution that employs the former learning specialist during the specified four-year period shall submit a report to the Director - Committees on Infractions no later than 30 days after it first employs the former learning specialist. The report shall set forth the employing institution's understanding of the above-listed penalty in effect at the time of initial employment and its responsibilities to monitor compliance. The report also shall set forth how the employing institution will monitor her conduct to assure compliance with the penalty. Thereafter every year until March 5, 2013, an employing institution will submit a supplemental report that continues to document its monitoring of the former learning specialist and compliance rules education provided to the former learning specialist. At the end of this four-year period, or upon termination of employment while the show-cause order is in effect, the president of the employing institution shall provide a letter to the committee affirming that the penalty was complied with during the time of employment at the employing institution. If the president is unable to so affirm, he shall so inform the committee.
8. With regard to the former academic advisor, the limitations set forth in Penalty C-7 shall apply, with the exception that it will be in effect for a period of five years

rather than four (March 6, 2009, to March 5, 2014). The additional year of the show-cause penalty is due to the former academic advisor's refusal to cooperate with the investigation.

9. With regard to the former tutor, the limitations set forth in Penalty C-7 shall apply, with the exception that it will be in effect for a period of three years rather than four (March 6, 2009, to March 5, 2012).
10. During this period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by May 15, 2009, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by October 15 of each year during the probationary period. Particular emphasis should be placed on monitoring to ensure academic integrity is maintained and to provide education to student-athletes on the importance of adherence to high standards of conduct in their academic affairs. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
11. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, Florida State University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, March 6, 2009.

Should Florida State University or the involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations. An institution that employs a coach while a show-cause order is in effect and fails to adhere to the penalties imposed subjects itself to allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

#### NCAA COMMITTEE ON INFRACTIONS

Eileen K. Jennings

Andrea (Andi) Myers

Alfred J. Lechner, Jr.

James (Jim) Park Jr.

Josephine (Jo) R. Potuto

Dennis E. Thomas, vice (acting) chair

## APPENDIX ONE

### CASE CHRONOLOGY.

#### **2007**

March 28 - Officials from Florida State University were made aware that the former learning specialist within the AASS unit had provided impermissible assistance to a former men's basketball student-athlete taking a sports psychology online quiz.

April 2007 – The institution's president requested the institution's office of audit services to investigate this academic matter to determine whether the incident was isolated or if there was evidence of a more widespread pattern of similar behavior among employees in the AASS unit.

April 3 – The former learning specialist was placed on administrative leave.

June 20- The former tutor resigned his position after he acknowledged providing improper academic assistance to student-athletes in the MUH-2051 online course.

July 27 – The former director of athletics and the associate director of athletics for compliance telephoned the NCAA vice president of enforcement, to inform him that the institution had begun investigating academic irregularities within the athletics department.

September 26 – The vice president of enforcement was notified by letter that the institution completed its initial investigation and identified 22 student-athletes who were involved in varying levels of academic misconduct related to the MUH-2051 online course.

October 16 - The institution submitted a request for the restoration of athletics eligibility to the NCAA student-athlete restatement staff for the initial group of student-athletes who admitted to committing academic fraud in the MUH-2051 online course.

November 7 - The NCAA student-athlete reinstatement staff rendered a decision for the initial group of student-athletes who were identified as having committed academic fraud.

November 7, 8, and 9 - The enforcement staff telephoned the former academic advisor and requested an in-person interview to discuss his knowledge of and involvement in possible violations of NCAA legislation.

November 20 - The enforcement staff submitted a letter to the former academic advisor requesting an in-person interview.

November 21 – The former academic advisor telephoned the enforcement staff and indicated by voicemail that he had no interest in participating in any interviews with the enforcement staff.

November 21 - The NCAA student-athlete reinstatement staff apprised the institution that it accepted the institution's 30-percent reduction penalty with the understanding that the 30-percent penalty would be available only to those student-athletes who previously had been forthcoming and admitted that they had committed academic fraud and to student-athletes who came forward in the immediate future and acknowledged their involvement in academic fraud regarding the MUH-2051 online course.

December 21 - The NCAA student-athlete reinstatement staff restored with conditions the eligibility of the initial group of student-athletes who admitted to committing academic fraud.

## **2008**

February 12 - The institution submitted a self-report to the NCAA enforcement staff.

February 20 - The NCAA enforcement staff made another request in writing to the former academic advisor and requested that he participate in an in-person interview.

February 25 - The enforcement staff submitted a notice of inquiry to the institution.

June 10 - The enforcement staff submitted a notice of allegations to the president of the institution, the former learning specialist, the former tutor and the former academic advisor.

June 11 – The former tutor informed the enforcement staff that he would not participate in the processing of this case.

September 11 - The institution submitted its response to the notice of allegations.

September 13 – The former learning specialist submitted her response to the notice of allegations.

September 19 - The enforcement staff conducted a prehearing conference with the former learning specialist.

October 18 – The institution and the former learning specialist (along with her legal counsel) appeared before the NCAA Division I Committee on Infractions.

**2009**

January 8 – The committee notified the former academic advisor that it was alleging unethical conduct and a failure to monitor against him due to his refusal to submit to an interview with institutional and NCAA officials.

March 6 – Infractions Report No. 294 is released.

## APPENDIX TWO

### **CORRECTIVE ACTIONS AS LISTED IN THE INSTITUTION'S September 10, 2008, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

The institution has (or will) implement several corrective actions. They include the following:

1. Did not renew the contracts of both the former learning specialist and the former tutor.
2. Removed the then director of the AASS from his position.
3. Required all athletics department administrative and non-administrative staff to attend a four-hour training program instructed by the compliance consultant on "Decision Making in the NCAA Compliance Environment".
4. Disassociated the former academic advisor from the institution due to his: (a) involvement in violations set forth in this report and (b) refusal to cooperate with this inquiry by refusing to interview with the institution or the NCAA Enforcement Staff.
5. Reviewed and enhance the working relationship between the learning specialist positions within the AASS and the SDRC and consider relocating the AASS learning specialist positions to the SDRC.
6. The institution has made significant changes in the AASS unit and in the administration of the athletics department.
7. In the summer of 2007 an internal audit was conducted. Numerous student-athletes and staff were interviewed in order to determine whether procedures should be modified or added. The audit staff issued a report with several recommendations. After its reorganization, the AASS staff agreed to implement these recommendations and detailed specific activities to obtain that goal. The actions below highlight some of the auditors' recommendations and additional actions developed by the institution:
  - A. Encouraged student-athletes with disabilities to register with and take advantage of the services provided to them by the University Student Disability Resource Center (SDRC).
  - B. Ensured that the director of AASS has the available information concerning the determination of whether a student-athlete is considered learning disabled.
  - C. Developed a policy for the AASS to report all known violations of the academic honor code to the dean of the faculties.

- D. Adopted a policy that AASS staff has only "view only" access to the student-athletes' "blackboard" information, which would strengthen security over the student-athletes' information and help protect their accounts from possible misuse by others.
- E. Implemented a institution-wide practice in which all online exams that count for significant credit in an undergraduate course are given in a structured environment under the supervision of a proctor.
- F. Enhanced monitoring of trends in grades of students in online courses.
- G. Developed a system within the AASS concerning tutorial assignments for student-athletes, including the identification of student-athletes assigned to each tutor for each semester.
- H. Reviewed and strengthen the Academic Honor Policy to accommodate situations when numerous students are involved in an academic irregularity when the institution had primary responsibility for the violation.
- I. Required more frequent communication between the athletics department, the AASS, and the dean of undergraduate students. While such communication is helpful for all areas, this relates primarily to discussions about the AASS.
- J. Required all student-athletes to receive information on the type of assistance that is permissible by tutors.
- K. Improved monitoring procedures for tutors in the AASS.
- L. Required all log-ons with all institution servers to be recorded and those recordings to be retained.
- M. Retained a consultant firm to review the AASS and make appropriate recommendations.
- N. Established guidelines concerning student-athletes and tutors for student-athletes to sign prior to the beginning of their tutorial relationship.
- O. Will review the appropriate reporting lines for the AASS.



# Exhibit 10



## **News Release**

FOR RELEASE:  
May 19, 2006  
3 p.m. Eastern time

CONTACT:  
Josephine R. Potuto, vice chair  
NCAA Division I  
Committee on Infractions  
University of Nebraska  
College of Law

### **SAVANNAH STATE UNIVERSITY** **PUBLIC INFRACTIONS REPORT**

#### **I. INTRODUCTION.**

This case involved the institution's football program and was resolved through the summary disposition process, a cooperative endeavor that may be used in place of a formal hearing when the NCAA enforcement staff, the member institution and involved individuals agree to the facts of an infractions case and that those facts constitute major violations. In this case, the individual responsible for most of the violations was a former assistant football coach ("former assistant coach A"). After an initial interview with the enforcement staff, former assistant coach A ceased cooperating with the NCAA and refused repeated requests for an additional interview [See: Finding II-B]. In a letter dated June 25, 2005, former assistant coach A's attorney stated that his client "will be unavailable for any further interviews concerning allegations against him for improper conduct while employed as a football coach at Savannah State University."

Despite the information contained in the letter, the enforcement staff continued in its effort to get former assistant coach A involved in the process. In correspondence dated January 4, 2006, and a follow-up letter dated February 1, former assistant coach A was invited by the staff, through his attorney, to participate in the summary disposition process. He failed to respond in any fashion to these letters. Although the summary disposition process stipulates that all involved parties must agree to the findings and penalties, there is a provision in the procedures which allow cases to go forward when an involved individual refuses to participate. Specifically, that provision states:

If an involved individual refuses to participate in the process, all other parties may continue with the summary disposition process. Nonparticipation includes, but is not limited to, refusing to participate in interviews, declining to review the proposed summary disposition report or not responding to requests for information. The enforcement staff is responsible for advising an involved individual in writing of the summary disposition process and applicable procedures. This information provides

the involved individual with notice that the opportunity to be involved in the process is being waived through nonparticipation.

The committee was satisfied that the enforcement staff met its burden in notifying former assistant coach A of his opportunity to participate in the process and the consequences of his refusal to do so.

This case was reviewed and adopted by the NCAA Division I Committee on Infractions during a March 16, 2006, conference call. In this case, violations of NCAA legislation were found in the following areas: recruiting, playing and practice seasons, financial aid, ethical conduct and institutional control. Although, as indicated earlier, many of the violations in this report centered on the activities of former assistant coach A, the institution failed in its responsibility to establish an atmosphere of compliance with regard to its football program, resulting in a finding of a lack of institutional control.

In this case the committee saw a recurring theme that has been at the center of other infractions cases in recent years - that is, the difficulties faced by small, understaffed and under-funded institutions as they attempt to step up from Division II to Division I. As the committee observed in an infractions case involving an institution in a similar position as Savannah State, "institutions making the move to Division I must have a heightened sense of awareness with respect to compliance during the period of transition and such institutions need to take deliberate steps to adequately prepare for the elevation to Division I status." The violations in the current case had some parallels to a major infractions case involving Savannah State heard by the Division II committee on Infractions in 1998. In that case, the Division II committee wrote:

The violations in this case represented a serious breakdown in the administration of the university's athletics programs and resulted in a significant competitive advantage for the university when numerous student-athletes received impermissible financial aid. During the 1994-95 academic year, the institution exceeded NCAA football financial aid limits by at least 28 scholarships and during the 1995-96 academic year the institution exceeded NCAA limits in women's basketball and football. As the institution admitted to the committee, these violations occurred because of a lack of institutional control. Institutional staff members misunderstood NCAA rules and the institution did not have a formal compliance program in place to monitor the activities of the coaching staff or to maintain the required records. These systemic failures led to violations in several of the university's athletics programs.

Most troubling to the committee was the fact that there was a lack of institutional control in both the 2006 case and the one processed in 1998. In the 1998 case, as noted above,

the Division II committee wrote that "institutional staff members misunderstood NCAA rules and the institution did not have a formal compliance program in place to monitor the activities of the coaching staff ..." In the current case, as will be illustrated later in this report, there was a misunderstanding and a lack of knowledge on the part of the institution and the coaching staff with regard to the National Letter of Intent (NLI) program (See Findings II-C-2 and II-E-1). There was also a misunderstanding in both cases pertaining to the awarding of financial aid (See Finding II-D).

Also troubling to the committee in this case was the institution's ill-advised practice of bringing football prospective student-athletes to the institution's campus during the summer prior to their initial full-time enrollment. As the committee has seen on numerous instances, this often leads to violations. (See: University of Cincinnati, Case No. M139, Infractions Report No. 155, Finding II-G - November 5, 1998; University of Nevada, Las Vegas, Infractions Report No. 177, Case No. M157, Finding II-E - December 12, 2000; University of Wisconsin, Case No. M171, Infractions Report No. 188, Findings II-B and II-C - October 2, 2001, and University of Missouri, Case No. M201, Infractions Report No. 228, Finding II-F-4 – November 3, 2004.) As the committee has noted in these cases, when prospects are brought to campus during the summer before their initial enrollment, the institution should monitor the circumstances, particularly as they relate to lodging and out-of-season workouts, because of the elevated possibility of violations (See Findings II-A, II-E-3 and II-E-4).

Finally, the committee had grave concerns regarding student-athlete welfare issues exposed in this case. As will be seen later in this report, former assistant coach A encouraged student-athletes to use substances banned by the NCAA (anabolic steroids). As stated in the NCAA's Constitution, Article 2.2.3, "It is the responsibility of each member institution to protect the health of and provide a safe environment for each of its participating student-athletes." The committee was encouraged by the fact that at least some of the student-athletes recognized the danger of this practice. One tape-recorded former assistant coach A speaking about taking banned substances. Fortunately, one of these student-athletes, or someone who was aware of this activity, anonymously contacted the NCAA to report it, triggering the investigation.

In the summary disposition report the university proposed a one-year probationary period. Because of the seriousness of this case, the committee believed that a three-year period of probation was more appropriate. (Note: The minimum prescribed period of probation for a major case is two years.) Further, because this case primarily concerned violations of recruiting legislation, the committee concluded that the university should be limited to no more than 27 official paid visits for the 2006-07 academic year, which represents a reduction of two from the average number of visits over the past three years. Following its review of the case, the committee communicated with institutional officials and informed them of the penalty modifications, to which they agreed.

The university has an enrollment of approximately 3,091 students and sponsors six men's and eight women's intercollegiate sports. As earlier indicated, this was the university's second major infractions case. The 1998 case (also processed through summary disposition) centered on violations associated with the over-awarding of financial aid in multiple sports.

## **II. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **A. VIOLATIONS OF RECRUITING LEGISLATION; VIOLATIONS OF PLAYING AND PRACTICE SEASON LEGISLATION. [NCAA Bylaws 13.2.1, 13.2.2(h), 13.5.1, 17.02.13, 17.1.5.2.1.2 and 17.11.6-(a)-(2)]**

During the summer of 2004, former assistant coach A provided or made arrangements for lodging and a meal in the Savannah area for eight prospective student-athletes, primarily from two-year institutions, who had committed to the institution and intended on enrolling at the institution in the fall.

Further, during the same summer, former assistant coach A arranged athletically related activities for at least six prospective student-athletes, observed at least 16 student-athletes and prospective student-athletes engage in athletically related activities, and provided transportation to at least four prospective student-athletes to and from the various practice locations. Specifically:

1. Concerning the summer of 2004 housing arrangements and the provision of a meal, former assistant coach A engaged in the following activities in violation of NCAA legislation.
  - a. Around June 2004, former assistant coach A arranged for a former assistant student-athlete ("student-athlete 1") who had recently completed his eligibility, to provide two prospective student-athletes ("prospects 1 and 2," respectively) at least one night of free housing at student-athlete 1's apartment.
  - b. Former assistant coach A arranged for prospects 1 and 2 to provide free lodging in their on-campus apartment for approximately two weeks to two additional prospective student-athletes ("prospects 3 and 4," respectively) who had traveled from California.

- c. Former assistant coach A provided free lodging to four prospective student-athletes ("prospects 5, 6, 7 and 8," respectively) at his (former assistant coach A's) apartment upon the young men's arrival on campus. Prospect 7 resided for approximately five weeks while the other prospects stayed with former assistant coach A between four days and one week before moving into the dormitory when practice began. Also, former assistant coach A provided a free meal at his home to each of these prospective student-athletes on at least one occasion.
2. Concerning former assistant coach A's involvement with improper preseason athletics activities, he engaged in the following activities in violation of NCAA legislation.
  - a. Former assistant coach A contacted at least eight prospective student-athletes (prospects 1, 2, 3, 4, 5, 6 and 7 plus another prospective student-athlete ("prospect 9")) – in an effort to encourage them to come to campus to work out with their teammates, creating the impression that all team members were on campus working out. As early as late June 2004, various prospective student-athletes -- including prospects 1, 2, 3, 4, 6 and 7 in addition to three other prospective student-athletes ("prospects 10, 11 and 12," respectively) -- began participating in scheduled workouts with several current football student-athletes. On numerous occasions, former assistant coach A instructed or observed the above-mentioned prospective student-athletes and student-athletes engaging in football drills and conditioning activities, which took place at the institution's football practice field and track, the local YMCA, and Tybee Island, a local beach. Further, the athletically related activities exceeded eight hours per week.
  - b. Former assistant coach A occasionally provided transportation to prospects 5, 6, 7 and 8 between his home and the institution's campus and Tybee Island for the purpose of engaging in athletically related activities during the time period in which each prospective student-athlete stayed at former assistant coach A's home.

### **EXPLANATION OF VIOLATION**

Based on the available information, former assistant coach A talked with prospective student-athletes when prospective student-athletes telephoned the football office. As early as December 2003, he initiated calls to prospective student-athletes and their parents for purposes of recruiting the prospective student-athletes to the institution. The institution acknowledges that it should have been monitoring former assistant coach A's activities, not only during the summer, but prior to and after this time period. It also acknowledges that one component in its lack of institutional control finding is that it did not monitor the student-athletes or the prospective student-athletes who were arriving during the summer.

With specific reference to Finding II-A-1(a), prospects 1 and 2 each confirmed that prior to their June 2004 arrival in Savannah, they had a telephone conversation with former assistant coach A during which he indicated that the two young men would have a house or an apartment to live in during the summer, and that this housing would cost them approximately \$150 to \$200 each for the summer. Upon their arrival, however, there was no housing for the prospective student-athletes and, as a result, former assistant coach A arranged for them to stay with student-athlete 1, who had exhausted his eligibility at the end of the 2004 season. They both reported that that they had never met or spoken to student-athlete 1 prior to their arrival. The two young men stated that the "arrangements" made by former assistant coach A consisted of them sleeping on the floor of student-athlete 1's one-bedroom apartment. Both prospects reported that, because they had no desire to sleep on the floor, they quickly found alternate housing at a privately owned on-campus apartment community, for which they paid the cost of lodging.

With specific reference to Finding II-A-1(b), prospects 3 and 4 reported that they arrived in Savannah around July 22 and resided with prospects 1 and 2 in their on-campus apartment referenced in Finding II-A-1(a). They stayed in the apartment cost-free and left in early August. Prospect 3 reported that, prior to their arrival in Savannah, former assistant coach A had told him and prospect 4 that he had a place for them to stay, although, at that time, the exact arrangements were not made clear to the prospects. Prospect 4 reported that the coach contacted prospect 3 and him in early July and requested that, if the two were to come to Savannah that summer, they would have a place to stay and that they would "be on the meal plan...eating in the cafeteria." However, upon their arrival in Savannah, former assistant coach A really did not have a place for them to stay, so he placed them in the apartment being rented by prospects 1 and 2. As a result, they had to "sneak" into prospect 1 and 2's apartment because the prospects feared they might be "kicked out" if the management was aware that 4 people were living in the apartment. [Note: Prospects 1, 2, 3 and 4 were acquainted with one another, as they had competed at the same junior college, although were not close friends.]

Prospect 2 confirmed the above account provided by prospects 3 and 4 and added that former assistant coach A "just started putting guys in there with us, and they weren't paying...." He recalled that he returned to Savannah from a trip home and found that prospects 3 and 4 had moved into his apartment, without any prior arrangements. Prospects 1 and 2 paid for prospects 3 and 4's food, as the latter two did not have the financial means to pay for room and board.

In reference to Finding II-A-1(c), prospects 5, 6 and 8 all acknowledged that they stayed with former assistant coach A prior to campus dorms opening for practice. Prospect 5 reported that he had conversations with former assistant coach A prior to his arrival in Savannah, during which the coach told him that he (prospect 5) could stay with the coach. Prospect 5 added that former assistant coach A told him not to tell anyone that he was staying with former assistant coach A. Prospect 5 reported that he, along with prospect 6, 7 and 8 stayed with former assistant coach A. The information provided by prospects 6 and 8 confirmed this information. Further, prospects 3, 4 and 9 corroborated this impermissible lodging. They observed prospect 5's, 6's, 7's and 8's personal belongings at former assistant coach A's apartment and reported seeing pillows lying around, presumably where the prospective student-athletes slept. Former assistant coach A denied the finding, as did prospect 7.

In reference to Finding II-A-2(a), the evidence reflected that during the summer of 2004, former assistant coach A began telephoning some of the prospective student-athletes to inquire about when they would be coming to the Savannah area. He informed several prospective student-athletes that other prospective student-athletes or returning student-athletes were in Savannah working out. According to the prospects interviewed, former assistant coach A strongly encouraged them to come to campus several weeks prior to the start of preseason practice. Prior to the prospective student-athletes' arrival, former assistant coach A arranged free or reduced-cost housing for the prospective student-athletes.

Once the prospective student-athletes arrived, the evidence showed that they began to work out, and former assistant coach A was present for and provided transportation to the prospects for some of the workouts. Former assistant coach A regularly attended the workouts during which he provided instructional and motivational support to the participating prospective student-athletes and student-athletes. As noted above, some of the incoming prospective student-athletes came to the Savannah area during the summer, and they lived in a privately-owned on-campus housing facility or with former assistant coach A for at least a short period of time. These incoming prospective student-athletes and returning student-athletes worked out. It appears that the circumstances surrounding the Savannah workouts for each of these individuals varied by when they arrived on campus and with whom they lived.



Several incoming prospective student-athletes mentioned that they had telephone conversations with former assistant coach A during the summer and that he encouraged them to come to campus, as other prospective student-athletes and returning student-athletes were working out. Concerning the incoming prospective student-athletes, it appears that prospect 7 was on campus for approximately five weeks, that prospects 3 and 4 were there for approximately two weeks prior to practice and prospects 1 and 2 were in Savannah approximately six weeks prior to practice. The institution believes that the student-athletes could have lifted weights on campus or had conditioning drills at institutional facilities under the supervision of the strength and conditioning coach, who had responsibilities for more than the football program, subject to applicable NCAA Bylaw 17 requirements. However, no one was designated to act as the institution's strength and conditioning coach. Former assistant coach A was present for several of the workouts, and if he would have been the strength and conditioning coach with department-wide responsibilities, his presence would have been permissible. However, due to his status within the football program, his attendance was not permissible. The information provided revealed that former assistant coach A was not only present for many of the workouts, but he frequently engaged in coaching activities. The institution has acknowledged it is responsible for his actions.

In reference to Finding II-A-2(b), prospect 6, who arrived four days to a week prior to fall practice beginning, and who stayed in former assistant coach A's apartment, stated that he lifted weights, ran on the track and occasionally participated in seven-on-seven drills during the days prior to practice. Prospect 6 reported that former assistant coach A transported him and other prospects to campus where they worked out. A former assistant football coach ("former assistant coach B") recalled one of the prospective student-athletes mentioned that coach A told prospects that they should be on campus working out, as the team was working out. Former assistant coach B thought that former assistant coach A was in charge of the summer conditioning program, but he did not know how the student-athletes got the work-out information and did not know the specifics of the program. Former assistant coach B recalled former assistant coach A telling him that he (former assistant coach A) was working out with "some of the guys on the beach." Former assistant coach B recalled getting a ride to campus from former assistant coach A on one occasion, and on that occasion, prospect 7 was present in the car.

**B. VIOLATIONS OF THE PRINCIPLES OF ETHICAL CONDUCT; VIOLATION OF COOPERATIVE PRINCIPLE. [NCAA Bylaws 10.01, 10.1, 10.1-(a), 10.1-(c), 10.1-(d), 19.01.3 and 32.1.4]**

During the 2003-04 academic year through fall of 2004, former assistant coach A violated the principles of ethical conduct and the cooperative principle when he

failed to deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics. Specifically:

1. Former assistant coach A violated the principles of ethical conduct when he provided false and misleading information during a November 18, 2004, interview with the institution and the NCAA enforcement staff regarding his knowledge of and involvement in the matters described in Findings II-A, II-B-3 and II-C-1 of this report.
2. Former assistant coach A violated the principles of ethical conduct during the summer of 2004 when he encouraged prospects 1 and 2 and a student-athlete ("student-athlete 2") to purchase and use NCAA-banned drugs.
3. Former assistant coach A violated the principles of ethical conduct and the cooperative principle when he refused to submit to a second interview with the NCAA enforcement staff related to his knowledge of and involvement in the matters described in Finding II-A, II-B-3 and II-C-1 when requested to do so on numerous occasions by the enforcement staff subsequent to his dismissal from the institution.

### **EXPLANATION OF VIOLATION**

With reference to Finding II-B-1, former assistant coach A provided false and misleading information during an interview with the NCAA enforcement staff. Specifically:

1. Former assistant coach A denied making any arrangements with student-athlete 1 for incoming prospects 1 and 2 to stay with student-athlete 1 on a temporary basis until the two prospects could locate lodging as set forth in Finding II-A-1(a). This position was contradicted by the prospects.
2. Former assistant coach A denied that he was involved with arranging for prospects 3 and 4 to stay with prospects 1 and 2 during the summer of 2004, as set forth in Finding II-A-1(b). Former assistant coach A reported he assumed that prospects 3 and 4 made their housing arrangements with prospects 1 and 2. Again, former assistant coach A's position was refuted by the prospects.
3. Former assistant coach A denied that prospects 5, 6, 7 and 8 stayed with him as set forth in Finding II-A-1(c). Three of the prospects reported that they stayed with former assistant coach A a minimum of a few days prior to practice beginning. He generally denied that any student-athletes or prospective student-

athletes stayed with him at any time at his apartment "for a day, an hour or overnight."

With reference to Finding II-B-2, on October 18, 2004, an anonymous source telephoned the enforcement staff and reported that a member of the coaching staff encouraged steroid use and offered to sell steroids to football student-athletes at Savannah State. The source also reported that there might be audio evidence available to support the allegations. This triggered the NCAA investigation.

During the investigation, interviews were conducted with a number of student-athletes and coaches. Prospects 1 and 2, in addition to student-athlete 2, reported that former assistant coach A encouraged them to use performance-enhancing banned substances (steroids). It should be noted that prospects 1 and 2 both reported that former assistant coach A actually sold steroids to them during late summer 2004. However, both reported that they eventually discarded the material and did not ingest any of it. Although the available information was not conclusive with regard to former assistant coach A selling steroids to prospects or student-athletes, the evidence was sufficient to conclude that former assistant coach A encouraged steroid use among football student-athletes and prospects. Student-athlete 2 also reported that he informed a football coach of former assistant coach A's promotion of steroid use. Regrettably, this information was not passed to the proper institutional authorities and is one of the reasons the university was found for a lack of institutional control (See Finding II-E-2).

According to prospect 1, former assistant coach A told him that he needed to get "bigger" and that former assistant coach A said that he had gotten "bigger" in high school through bench pressing and taking "more stuff." Initially, prospect 1 thought that former assistant coach A was joking, but former assistant coach A continued to talk about it, and recounted to prospect 1 that he (former assistant coach A) told an athlete from a previous year how to beat the drug test. During these conversations there was reference to "D-bol." According to the National Center for Drug Free Sport, "D-bol" is the street term for the anabolic steroid Dianabol, which is an NCAA-banned drug. There was also reference to "Winstrol V," (Stanozolol) which is an NCAA-banned steroid as well.

Perhaps the most compelling evidence of former assistant coach A's complicity in encouraging the use of steroids was captured in a tape-recording of a conversation between prospect 1 and former assistant coach A. The recording was made during the fall of 2004. (Note: Georgia is a one-party consent state for the recording of conversations.) The following is an excerpt from this taped conversation that was later transcribed and provided to the committee:

**Prospect 1:** ...Yeah, I know. I'm just saying (inaudible) 'cause I don't know how to inject myself.

**Former assistant coach A:** Oh, I can show you....

...

**Prospect 1:** ...Well, I know he was using (inaudible) and some other stuff at the same time.

**Former assistant coach A:** It doesn't have to be. The only thing you need to be on is Winstrol and D-bol and that's it.

**Prospect 1:** He wasn't on D-bol. He was on, like Androl instead of D-bol.

**Former assistant coach A:** But Androl doesn't work (inaudible) D-bol and, uh, the Winstrol (inaudible) it's easier...

Prospect 1 left the institution December 9, 2004, and enrolled in a two-year college. He told the enforcement staff that he left the institution due to the "steroid situation," the NCAA investigation and because the institution's facilities and academic programs fell short of his expectations.

In addition to the evidence from prospects 1 and 2, there is evidence that a prospect used steroids and this use could be linked to former assistant coach A. On August 24, 2004, the prospect was randomly selected for drug testing. The test results were positive for the NCAA-banned steroid Stanozolol, commonly known on the street as "Winstrol." As noted in the above excerpts from the tape-recording of a conversation between prospect 1 and former assistant coach A, the coach made a reference to "Winstrol." While there is no finding involving former assistant coach A and the prospect relative to the possible use of steroids, the committee concludes that this is further circumstantial evidence supporting the finding that former assistant coach A encouraged steroid use among prospects and student-athletes.

In reference to Finding II-B-4, the committee noted that former assistant coach A consented to one interview with the enforcement staff, during which he denied involvement in any violations of NCAA legislation. The staff sought, on numerous occasions, to conduct a follow-up interview in order for former assistant coach A to address information received from other sources which contradicted his position, and to give him the opportunity to "set the record straight." However, former assistant coach A refused to be interviewed a second time. Ultimately an attorney he retained sent a letter to the enforcement staff which said that former assistant coach A was "(unavailable) to participate in any further interviews concerning allegations against [former assistant coach A] of improper conduct while employed as a football coach at Savannah State University."

**C. VIOLATIONS OF RECRUITING LEGISLATION. [NCAA Bylaws 13.02.5.1-(a), 13.1.2.1, 13.1.6.7, 13.1.6.7.1, 13.2.1, 13.2.2-(g) and 16.11.2.1]**

On two occasions in January 2004, the institution's football coaching staff violated NCAA recruiting legislation. Specifically:

1. On or around January 16, 2004, former assistant coach A arranged for or permitted at least five prospective student-athletes and two student-athletes to receive free or reduced admission to a local nightclub during the prospective student-athletes' official paid visit.
2. On or around January 18 and 25, 2004, at the conclusion of the prospective student-athletes' official paid visits, the former assistant head football coach hand delivered copies of the National Letter of Intent (NLI) to at least seven prospective student-athletes at an off-campus hotel (the Club House Inn), where the prospective student-athletes stayed during their official visits. The prospective student-athletes executed the NLIs on the above-mentioned dates prior to the initial signing date in the sport of football, which occurred February 4, 2004.

**EXPLANATION OF VIOLATION**

The investigation revealed that during the 2003-04 academic year, and primarily in January 2004, former assistant coach A had a significant role in organizing official visits for prospective student-athletes. He regularly met prospective student-athletes at the airport and gave tours of campus. Although the information is in conflict to how often he transported prospective student-athletes and student-athletes to area nightclubs, it appears that he was present at some clubs when student-athletes and prospective student-athletes were also in attendance. As noted earlier in this report, former assistant coach A was in his mid-20s when he was involved with the football program, and thus "fit in" with the age group of the prospects and student-athletes.

With specific reference to Finding II-C-1, the evidence reflected that during January 2004, former assistant coach A arranged for or permitted at least five prospective student-athletes and two student-athletes to receive free or reduced admission to at least one local night club during the prospective student-athletes' official paid visits. The institution provided approximately 19 prospective student-athletes official visits during the weekend of January 16-19 and approximately eight prospective student-athletes during the weekend of January 23-26. Many of the prospective student-athletes who took official visits during these weekends were interviewed during on-campus interviews. Generally speaking, the prospective student-athletes and student hosts went to several

clubs on each night. As a result, the student-athletes' recollection varied as to who was present at what club on what night. Nevertheless, several prospects and student-athletes, including prospect 1, 3, 4 and 6, reported that they did not pay any cover charge.

In reference to Finding II-C-2, the institution misinterpreted the signing periods for the NLI. The institution was not a member of the NLI program but was using the letter during this time period. The NCAA's membership services staff determined that it was a violation. Much of the culpability for the violation can be assessed to the former assistant head coach. As indicated earlier in this report, the former head coach was elevated to that position midway through the 2003 season. Previously, he had been an assistant coach at the institution for several years. He resigned in March 2006. The time frame of the violations would have been during his first recruiting period as head coach. The issues with the NLI involve the delivery and when and where it was signed. The NLI program allows an NLI to be signed by a junior college prospective student-athlete in the sport of football if the prospective student-athlete intends to enroll for the second semester at the institution. The signing period for those prospective student-athletes is from mid-December through mid-January. The former head coach believed a junior college prospective student-athlete could sign an NLI at any period after the early signing date and that this early signing period also applied to those junior college prospective student-athletes enrolling in the fall.

The former head coach and several prospects reported that the prospects signed NLIs in the hotel in which they were lodged on the last day of their official paid visit, which was during the period January 18-25, 2004. The prospective student-athletes signed an NLI in January, but they did not sign an institutional financial aid agreement. Due to the terms of the NLI program, a written award of athletics aid for the entire academic year must accompany an NLI. However, the NLI program has created an exemption to the general rule for midyear junior college transfers in the sport of football. Any midyear junior college transfer in football may sign an NLI during the midyear signing period without signing an institutional financial aid agreement. This signing period during this applicable time period was December 13, 2003, to January 15, 2004.

The former head coach reported that he thought that all junior college prospective student-athletes, regardless of their intention to enroll at midyear or in the fall, could sign after the initial December signing date. He recalled that when he was an assistant coach, there was an early signing date for junior college prospective student-athletes, although he was not directly involved with the NLI when he was an assistant coach. The former head coach recalled that when he became the head coach midway through the fall of 2003, he went to the then director of athletics and confirmed his understanding with regard to the signing of junior college transfers. The former head coach reported that it was his common practice on the last day of the official visit to offer the prospective student-athlete the opportunity to sign an NLI. If they signed, he would send another NLI

after the February signing date. In response to a question, the former head coach reported that he could not remember why he sent the second letter. The former head coach could not remember any occasion when a junior college prospective student-athlete signed the first NLI and not the second NLI.

Concerning the location of the signing, NCAA and NLI legislation allows for an NLI to be received and signed while on campus for an official visit. However, a coach cannot be present when a prospective student-athlete signs an NLI off campus. Pursuant to Bylaw 13.1.6.7, any in-person off-campus contact with a prospective student-athlete for the purpose of signing an NLI is prohibited. Further, an in-person, off-campus delivery of an NLI is prohibited.

**D. INELIGIBILITY TO RECEIVE FINANCIAL AID. [NCAA Bylaw 14.5.4]**

During the 2004-05 academic year, two student-athletes received institutionally administered athletics financial aid even though the young men were ineligible because they did not meet NCAA transfer legislation requirements for a prospective student-athlete transferring from a two-year collegiate institution. Specifically:

1. Prospect 6 practiced a few days in the fall until it was determined that he did not have a sufficient number of transferable degree credits. He remained enrolled during the academic year at the institution but was not a member of the football team. However, his initial athletically related award of \$7,026 for both semesters was not cancelled.
2. During the fall of 2004, a then student-athlete ("student-athlete 3") received \$4,575 in institutionally administered athletics financial aid during the fall semester. Student-athlete 3 practiced less than a two-week period until it was discovered that he was ineligible. Student-athlete 3 did not receive athletics aid for the second semester.

**EXPLANATION OF VIOLATION**

It was noted that both student-athletes practiced only a minimal amount of time and never competed for the institution. In both situations, the institution believed that the student-athletes were eligible early in the summer, so their names were submitted to the financial aid office. However, when the institution determined that the student-athletes were not eligible, subsequent notification was not given to the financial aid office to cancel their aid.

Both violations resulted from the institution's implementation of a new system to certify eligibility. The institution's system correctly denoted that the student-athletes were ineligible once the summer school grades were received. The student-athletes' names were initially submitted to the financial aid office prior to the start of the semester and the determination of their eligibility; however, subsequent notification was not forwarded to the financial aid office after the student-athletes were determined to be ineligible. Further, the financial aid office awarded aid without reviewing the Compliance Assistance Software to determine the identities of the student-athletes who were eligible to receive such aid.

With specific reference to Finding II-D-1, prospect 6 graduated from high school in the spring of 2001, attended a preparatory school for one year and then enrolled at a two-year college in fall of 2002 and participated for two seasons at the two-year institution. During the summer of 2004, prospect 6 enrolled in a class at the two-year institution, which he believed would satisfy his graduation requirements. Subsequently, prospect 6 went to the Savannah area approximately four days to a week prior to the start of preseason football practice. At that time, prospect 6 had been admitted to the institution. Soon after the start of regular-season practice (fall of 2004), questions arose regarding whether the institution received the necessary official transcript from the community college and whether the grade during the summer met his requirements for immediate eligibility. Prospect 6 was allowed to practice for a week and a half, and then was withheld pending the outcome of the receipt of his academic information. Prospect 6 was never certified as eligible and did not return to the team, but he remained enrolled at the institution. Prospect 6 attended both semesters of the 2004-05 academic year, and his initial award of \$7,000, which included both semesters, was not cancelled.

In reference to Finding II-D-2, similar to prospect 6, student-athlete 3 was believed to be eligible and was listed in the financial aid office as an eligible recipient of athletics financial aid prior to the semester. Nevertheless, he received aid during his only semester at the institution (fall of 2004). Student-athlete 3 practiced for a few days and was not deemed to be eligible.

**E. LACK OF INSTITUTIONAL CONTROL. [NCAA Constitution 2.1, 2.8.1 and 6.01]**

The institution demonstrated a lack of institutional control over its athletics programs as it relates to certain matters in this inquiry. Specifically:

1. As partly reflected in Finding No. III-C-2, the institution did not exercise institutional control in that institutional staff members in many of the sports administered and delivered NLI's to prospective student-athletes



even though the institution was not a member of this program. In the fall of 2000, the institution failed to subscribe to the NLI with its new reclassification to Division I status, and as a result, the institution was no longer a member of the NLI program. Institutional staff members did not realize they were no longer members of the NLI program, so during the 2000-01, 2001-02, 2002-03 and 2003-04 academic years, many institutional staff members continued to use the NLI with prospective student-athletes. As a result of this, numerous prospective student-athletes had a mistaken belief as to the extent of their commitment to the institution.

2. As noted in Finding No. II-B, the institution did not exercise institutional control in that members of the football coaching staff failed to forward information concerning a possible violation to the institution's athletics administration. In the summer of 2004, some members of the football coaching staff, including the head football coach, became aware of information that former assistant coach A had encouraged student-athlete 2 to use NCAA-banned drugs. The coaching staff should have notified the athletics administration so that an appropriate investigation of the matter could be undertaken, but did not do so. As a result, the violations set forth in Finding No. II-B went undetected until the enforcement staff began an investigation into the matter.
3. As noted in Finding II-A, the institution did not exercise institutional control related to summer housing for prospective student-athletes. The head coach and some members of the institution's football staff were aware that a number of prospective student-athletes had moved to Savannah, Georgia, early from out of state in the summer of 2004, and they knew the young men were not receiving any permissible institutional financial aid. Despite this, the coaching staff failed to inquire appropriately to determine with certainty how the young men were able to secure their room and board that summer. As a result, the violations outlined in Finding II-A went undetected until the NCAA enforcement staff began an investigation of the matter.
4. As noted in Finding II-A, the institution did not exercise institutional control in that some members of the football coaching staff were aware of some of the details of former assistant coach A's involvement in summer workouts with prospective student-athletes and student-athletes, details of which should have prompted the coaching staff to alert the athletics administration so that an appropriate review of the situation could have been done to determine whether former assistant coach A's involvement

in the workouts was permissible under NCAA legislation. Consequently, no review was done, and the violations went undetected until the enforcement staff began an investigation of the matter.

### **EXPLANATION OF VIOLATION**

There was agreement that Savannah State lacked institutional control. The committee believed that the following quote from the former assistant director of athletics captured the concerns the committee has with regard to institutions like Savannah State moving from Division II status to Division I.

But, I want to get back to what you just reported that about institutional control. I think there's an institutional obligation that when you decide to go into Division I, that you put support services in place allowing personnel and the budget. I don't think that one would just throw athletes and coaches out there in the Division I atmosphere without the proper support service. Generally, they lend to your problem. It's just a matter of time before a problem occurs. If you have no one in compliance, you have no senior administrator, you got a secretary, you got an athletics director and you got sports director and no one under him. You got part-time coaches, some, you have an atmosphere where something is gonna happen and that's a formula for failure. And I felt that I was put in a position where I was gonna fail.

With specific reference to Finding II-E-1, the institution was a member of the Southern Intercollegiate Athletic Conference (SIAC) until it reclassified to Division I-AA in the fall of 2001. At that point, the institution ceased to have a conference affiliation and operated as an independent member of the Association. Records of the NLI show that Savannah State University (Savannah State) was a member of the NLI program in 1999-00. No records exist of their membership again until the fall of 2004. The former assistant director of athletics, who was in that position from 2001 until March 2004, reported that the institution used the NLI prior to his arrival. The former assistant director of athletics stated that it surprised him to learn that the institution was not a member of the program until the fall of 2004. The former assistant director indicated that he did not have a specific recollection of receiving a bill for the NLI, but he would have forwarded it to be paid. When asked about his specific recollection of the NLIs, he stated that he remembered seeing files with letters. The former assistant director of athletics stated that he believed he got the NLIs and gave them to the coaches, and on occasion, the coaches may have obtained the NLIs themselves. The former assistant director of athletics reported that he did not have a recollection of accessing the Web site to obtain the NLIs, nor did he recall receiving the NLIs back from coaches. He stated that if he did,

he would have put them in a file. The institution reviewed its files for copies of NLIs during these years and discovered only two letters. The review of these two letters did not provide any assistance in resolving this issue.

In reference to Finding II-E-2, and as set forth in Finding II-B-2, student-athlete 2 reported that during the summer of 2004, former assistant coach A encouraged him to use steroids and that he informed a member of the football staff of this. Student-athlete 2 reported that he was in the office of an assistant football coach ("former assistant coach C") one day in June 2004, and he described the following scene:

I was in (former assistant coach C's) office, and (former assistant coach A) walked in, and I think he left and went across the street to the weight room. And, uh, (former assistant coach C) asked me what happened during, over the summer, whatever. And I said, well, uh, we was working out, and I just told him (former assistant coach C), I said, (former assistant coach A) tried to get me to take steroids. He (former assistant coach C) was like, what? I was like, yeah. He (former assistant coach C) said, man, football ain't that important, and that, he (former assistant coach A) should not even be doing that, and he (former assistant coach C) said, I'm gonna talk to him (former assistant coach A) about that. That was it.

Former assistant coach C confirmed student-athlete 2's account of how he informed former assistant coach C. Former assistant coach C reported that he brought the issue up in a football coaches' meeting attended by former assistant coach A and two other coaches ("former assistant coach D") and ("former assistant coach E"). Former assistant coach C restated to the other football coaches what student-athlete 2 had told him, and expressed his concern and displeasure with the information the student-athlete had passed to him. Former assistant coach C reported that the former head coach told him that he would look into it. Former assistant coach C reported that he did not follow up with the former head coach to see what he had done about the matter.

Former assistant coach B confirmed that, during a football coaches' meeting, former assistant coach C revealed what student-athlete 2 had said about former assistant coach A encouraging the use of steroids. Former assistant coach B thought the meeting took place in either June or early July 2004. Former assistant coach B recalled former assistant coach C using the word "steroids" in that meeting. Former assistant coach B recalled that the former head coach was "amazed" by the information, yet former assistant coach B was not aware of whether any plan or efforts to confront former assistant coach A or report the information about steroid use to the institution's compliance staff. Former assistant coach B claimed that he and the other coaches doubted student-athlete 2's credibility.

Former assistant coach D recalled that he was at a coaches' meeting in either July or August 2004 when former assistant coach C told the former head coach about allegations involving former assistant coach A encouraging student-athlete 2 to take "a supplement." Former assistant coach C reported that the conversation about the allegations involving former assistant coach A only took two to three minutes; he recalled coach B asking the former head coach to talk to former assistant coach A. Former assistant coach C also reported that student-athlete 2 had told the former head coach that former assistant coach A had offered steroids to him. Former assistant coach D reported that he learned this information in November 2004 after former assistant coach A had been dismissed from the program.

The former head coach was interviewed twice and was queried on both occasions about the steroid issue involving former assistant coach A. During the first interview, which took place in November 2004, the former head coach denied any knowledge of the steroid issue. However, when interviewed in May 2005, the former head coach acknowledged that he was aware that student-athlete 2 had approached one of the coaches and informed him that former assistant coach A had encouraged the student-athlete to use steroids. Ultimately, the former head coach admitted, "But it did come to me as if, you know, he was, (former assistant coach A) was trying to push and sell steroids." The former head coach stated that he confronted former assistant coach A with the information about the encouragement of steroid use, and former assistant coach A denied the allegation, saying only that student-athlete 2 "might need to get some Creatin or something, you know that nitrotech that all the kids are taking to, to build his stamina up, cause he need to get out there, run and get himself stronger."

The committee noted that in August 2004, a prospect tested positive for the anabolic steroid Stanozolol. The prospect's test results would have occurred after the coaches' meeting during which former assistant coach C had informed the staff of the information he received from student-athlete 2 about former assistant coach A encouraging the use of steroids. The committee concluded that the combination of student-athlete 2's report and the fact that a prospect tested positive for Stanozolol should have been more than sufficient "red flags" for the former head coach and his staff to alert someone at the institution that an inquiry should be initiated regarding former assistant coach A's involvement with banned drugs. However, the evidence showed that no one on the coaching staff made such a report or requested an inquiry. In fact, nothing was done until the enforcement arrived at the institution's campus and began to conduct interviews about former assistant coach A and banned drugs. Shortly after the first round of enforcement staff on-campus interviews, the institution terminated former assistant coach A for several reasons, including the steroid allegations.

In reference to Finding II-E-3, the investigation revealed that the former assistant head coach and most, if not all, of the former assistant coaches were aware that prospects were

on campus during summer of 2004, prior to their enrollment at the institution. However, no steps were taken to determine how they were paying their expenses, where they were living or to monitor their activities. For example, former assistant coach B reported that, despite the fact that his office is close to the weight room and he saw the prospective student-athletes working out in there during the summer, he had no idea where they were living, or how they were able to afford their housing that summer. When the former assistant head coach was asked if there were any compliance safeguards in place with respect to these prospective student-athletes, so as to preclude potential recruiting violations, the former assistant head coach replied:

Uh, I wouldn't say there's anything in place. Just, we don't do anything with them. We don't have any, uh, uh, uh, too much contact with them. And that's, you know, like I say, we didn't have any contact with the kids actually. You know, once we mailed out all the information, we send out the literature, uh, the kids were getting their information and the majority of the information was you now, uh, uh, just make sure that, you know, the stuff was being done in the office and the admissions office and make sure you're getting everything in.

As previously set forth in the introduction of this report, when prospects are brought to campus during the summer before their initial enrollment, the institution has an obligation to monitor these prospective student-athletes, particularly with regard to the means by which they are paying their living expenses and any possible out-of-season workouts in which they may be engaged. As has been seen in numerous infractions cases over the past ten years, there is an elevated risk of recruiting violations when prospective student-athletes are brought to campus during the summer before their initial full-time enrollment.

With regard to Finding II-E-4, as previously noted, the former assistant head coach acknowledged knowing that prospective student-athletes had moved to Savannah early during the summer of 2004. However, the former assistant head coach reported that he was not aware that former assistant coach A had encouraged some of the prospective student-athletes to come to campus early so they could work out. When asked whether he was aware of any of the prospective student-athletes participating in seven-on-seven drills that summer, the former assistant head coach replied that he was not aware of this, but said, "You know, I'm pretty sure they probably did."

The former assistant head coach reported that prior to the hiring of the current director of athletics in August 2004 he was not aware of former assistant coach A participating in any NCAA rules education sessions. In fact, prior to the hiring of the current director of athletics, the former assistant head coach himself could not recall attending any NCAA rules education sessions.

As noted previously, former assistant coach B reported that his office was close to the weight room; therefore, during the summer of 2004, he saw the prospective student-athletes working out in the weight room on a consistent basis. He reported that he was not paying any attention to it, but he did not see any coach with the prospective student-athletes. However, both prospects 3 and 4 reported they told former assistant coach B that former assistant coach A had told them that everybody on the team was working out that summer, and they needed to be there as well. Having this information should have been an alert to former assistant coach B that former assistant coach A had probably set up workouts in violation of NCAA legislation. However, former assistant coach B reported that on learning this information from prospects 3 and 4, he just shook his head, turned away and walked back into his office. Former assistant coach B reported that he never talked to former assistant coach A about this matter, let alone anyone else in the athletics administration.

Other assistant coaches reported that they were aware that former assistant coach A was working out with prospective student-athletes. The former assistant athletics director reported that just before he left the institution in mid-June, he heard a rumor that some prospective student-athletes were on campus and were working out in the weight room. He reported that he did not have time to look into it because he was stretched in too many directions and he had no help. The athletics administration consisted of him, his secretary and a sports information director. When he was fired in March 2004 from his athletics director position, he assumed the duties of the compliance officer.

#### **IV. PENALTIES.**

For the reasons set forth in Parts I and II of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions, including the cancellation of the 2006 spring football practice period. The institution has acknowledged the facts of these findings and that the facts constitute violations of NCAA legislation. [Note: The institution's corrective actions are contained in Appendix Two.] As stated in the introduction to this report, the committee adopted the majority of the penalties self-imposed by the institution, but, in consultation with the institution, imposed a three-year probationary period and a reduction in the official paid visits offered by the football program. The penalties were all self-imposed, with the exception of the public reprimand, the probationary period, a show cause penalty imposed upon former assistant coach A and the reduction of football visits, as previously noted. The penalties are as follows:

- A. The institution shall be publicly reprimanded and censured.

- B. The institution shall be placed on three years of probation from May 19, 2006, to May 18, 2009.
- C. The institution will reduce by 36 the number of practice activities allowed, beginning with the conditioning activities in the spring of 2006 and continue through the summer and fall of 2006 and spring of 2007. This is a two-for-one reduction. It should be noted that this is a result of former assistant coach A being involved with workouts during the summer of 2004. Due to former assistant coach A's classification, he could not have been involved with such work outs. However, he also was not a "traditional" assistant coach, and he was not providing information back to the other coaches about these work outs. The institution believes that this is a significant reduction based on the nature of the violation. (Institution imposed)
- D. The number of expense-paid visits to the institution's campus in the sport of football shall be limited to no more than 27 for the 2006-07 academic year. This represents a reduction of two visits from the average number of annual visits during the past three years.
- E. The institution terminated former assistant coach A shortly after the initial interviews in November 2004 and disassociated him from the institution for a period of 10 years.
- F. Former assistant coach A will be informed in writing by the NCAA that, due to his involvement in certain violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during a seven-year period (May 19, 2006, to May 18, 2013), he and any involved institution shall be requested to appear before the Committee on Infractions to consider whether the member institution(s) should be subject to the show cause procedures of Bylaw 19.5.2.2-(I), which could limit his athletically related duties at any such institution for a designated period.
- G. The former head football coach was reprimanded for his involvement in violations set forth in this report. The former head coach subsequently submitted his resignation on March 18, 2006.
- H. During this period of probation, the institution shall:
  - 1. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all university staff members with responsibility for the

- certification of student-athletes for admission, retention, financial aid or competition;
2. Submit a preliminary report to the office of the Committees on Infractions by July 15, 2006, setting forth a schedule for establishing this compliance and educational program; and
  3. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by April 10 of each year during the probationary period. Particular emphasis should be placed on the prevention of NCAA violations associated with prospective student-athletes who reside in the institution's city prior to full-time enrollment. The reports must also include documentation of the university's compliance with the penalties (adopted and) imposed by the committee.
- I. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the university's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, Savannah State University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, May 19, 2006.

The Committee on Infractions wishes to advise the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period, as well as imposing more severe sanctions in this case.

NCAA COMMITTEE ON INFRACTIONS  
Alfred J. Lechner, Jr.  
Edward (Ted) Leland  
Andrea L. Myers  
James Park Jr.  
Josephine R. Potuto, vice-chair



## **APPENDIX ONE**

### **CASE CHRONOLOGY.**

#### **2004**

October 18 - The NCAA enforcement staff received telephone calls from an anonymous source. The anonymous source wished to fax information to the NCAA, which the source subsequently did. After the initial call on October 18, the anonymous source telephoned again October 20 to provide additional information.

#### **2005**

Fall - Discussions began to occur between the institution and the enforcement staff about an agreement on the acknowledged violations and the use of the summary disposition process.

December 15 - The enforcement staff issued a notice of inquiry to the institution.

#### **2006**

February 10 – Summary disposition report was submitted to the NCAA Division I Committee on Infractions.

March 16 – The committee reviewed the summary disposition report.

March 18 – The former head football coach submitted his resignation.

May 19 – Infractions Report No. 258 was released.

## APPENDIX TWO

### **CORRECTIVE ACTIONS AS SET FORTH IN THE UNIVERSITY'S SUMMARY DISPOSITION REPORT OF FEBRUARY 10, 2006.**

As noted above, the majority of these violations occurred during a short period of time (January 2004 to August 2004) and primarily resulted from activities of the former volunteer coach, who the institution believed was an undergraduate assistant football coach. Further, during the latter part of this period, the institution was changing its leadership in the athletics department. The former director of athletics was ending his tenure as the athletics director in the spring of 2004 and he was reassigned to a compliance coordinator position for approximately four months, until mid-June 2004, when he left the institution. An interim director of athletics was in place from approximately May to August 2004.

Upon the hiring of the current director of athletics, who began his employment at the institution in the fall of 2004, the current director of athletics has implemented or is in the process of implementing several significant changes and corrective actions. These include the following:

- a. The hiring of additional staff, including a compliance coordinator.
- b. The finalization of a compliance manual and student-athlete handbook.
- c. The implementation of the NCAA Compliance Assistant Software.
- d. Implementation of a policy for coaching staff members concerning the reporting of information concerning possible violations.
- e. Recertification of its financial aid for the 2004-05 academic year. As a result from a request from the enforcement staff, the institution reviewed financial aid awarded to all athletes during the 2004-05 academic year and no other issue arose.
- f. Increased efforts to educate its student hosts to ensure that the institution's official visit policy is followed.
- g. Developed a program to monitor prospects living in the Savannah area prior to their fulltime enrollment at the institution.
- h. The institution will ensure that for incoming student-athletes for the 2006-07 academic year, no more than five prospects may be from two-year institutions.

# Exhibit 11



**UNIVERSITY OF TENNESSEE, KNOXVILLE**  
**PUBLIC INFRACTIONS REPORT**  
**August 24, 2011**

**A. INTRODUCTION.**

On June 11, 2011, officials from the University of Tennessee, Knoxville along with the former head men's basketball coach ("former head men's basketball coach") and his legal counsel; three former assistant men's basketball coaches ("former assistant coaches 1, 2 and 3," respectively) and their legal counsel; the former head football coach ("former head football coach") and his legal counsel; and a former assistant football coach ("former assistant football coach") and his legal counsel appeared before the NCAA Division I Committee on Infractions to address allegations of NCAA violations in the institution's men's basketball and football programs.

The most serious allegations in this case involved the former men's basketball coaching staff and their conduct in the commission of violations, the provision of false and misleading information about them, and the inducement of others to do the same. The violations originally stemmed from a September 20, 2008, incident in which the former head men's basketball coach and former assistant coaches 1, 2 and 3, had impermissible, off-campus, in-person contact with three prospective student-athletes ("prospects 1, 2 and 3," respectively). The contacts took place in the evening following an institutional football game when the prospects and their families attended a dinner at the home of the former head men's basketball coach. The prospects were high school juniors making unofficial visits to the institution.

After they had arrived and spent some time at the dinner, the three prospects and their family members were ushered to an outdoor veranda by the former head men's basketball coach. There he informed them that their attendance was a violation of NCAA rules and encouraged them to not disclose to others their attendance at the gathering.

The former head men's basketball coach did not report the violations to the institution. When later questioned about the matter, he denied knowledge of it. Further, he encouraged others to provide false information regarding the matter.

On April 6, 2010, the enforcement staff received an anonymous letter containing a photograph of the former head men's basketball coach and prospect 1 standing together. Hand-written on the page on which the photograph was printed was the following question: "Is having [prospect 1] a 2010 high school recruit in your home an NCAA

violation?" When the former head men's basketball coach and former assistant coaches 1, 2 and 3 were interviewed regarding this and other possible violations on June 14, 2010, all of them denied knowing where the picture was taken. Further, they did not disclose that prospects 1, 2 and 3 and their family members had attended the dinner. Follow-up interviews with prospects 1, 2 and 3 and/or their families confirmed their attendance and that the picture had been taken in the kitchen at the former head men's basketball coach's home. The former head men's basketball coach and former assistant coaches 1, 2 and 3 later admitted that the picture was taken at the home of the former head men's basketball coach.

The provision of incomplete information by former assistant coaches 1, 2 and 3 during their interviews constituted a failure to cooperate and abide by the NCAA's principles of honesty and sportsmanship. Further, former assistant coaches 2 and 3 compromised the integrity of the investigation when they shared information among themselves regarding their interviews after being directed not to do so. The former head men's basketball coach violated the NCAA's principle of ethical conduct when he knowingly engaged in the violations and provided false information about them to investigators. The violations were compounded when he asked the prospects and their families to conceal them. Moreover, on the same day as his interview with investigators, he phoned the father of prospect 1 ("prospect 1's father") and attempted to influence the statements prospect 1's father would make to investigators. These actions by the former head men's basketball coach failed to promote an atmosphere for rules compliance in his program.

The investigation also revealed that the men's basketball coaching staff placed 94 impermissible phone calls to 12 prospects in the two-year period from August 1, 2007, to July 29, 2009. That the violations were not discovered in a timely fashion constituted a failure to monitor by the institution. The former head men's basketball coach also failed to monitor this aspect of his program.

In the sport of football, it was alleged that major violations occurred in the conduct of the program, including recruiting activities undertaken by student interns. The committee concluded that the evidence was insufficient to support findings of major violations. However, the committee was troubled by the number and nature of the secondary infractions by the football coaching staff during its one-year tenure at the institution. From January 2009 through October 2009 the staff committed 12 violations, all connected to recruiting. Some of the violations received nationwide publicity and brought the football program into public controversy. This is not a record of which to be proud. Nevertheless, because the violations individually were secondary and most were isolated, the committee, in the end, determined not to make a finding of a major violation.

A member of the Southeastern Conference, the institution has an enrollment of approximately 20,000 students. The institution sponsors nine men's and 11 women's

intercollegiate sports. This was the institution's third major infractions case. It appeared before the committee in 1986 and 1991 for cases involving the football program.

## **B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **1. IMPERMISSIBLE PHONE CALLS. [NCAA Bylaws 13.1.3.1, 13.1.3.1.2 and 13.1.3.1.7]**

Between August 1, 2007, and July 29, 2009, members of the men's basketball coaching staff placed 94 impermissible telephone calls to 12 men's basketball prospective student-athletes or their family members. The calls were made by the former head men's basketball coach and former assistant coaches 1 and 2.

#### **Committee Rationale**

The enforcement staff, the institution, the former head men's basketball coach and former assistant coaches 1 and 2 were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

The institution began a review of men's basketball telephone records in May 2009 after being informed by the NCAA that it had received reports of potential rules violations in the program. Initially the review was limited to a single prospect, but as violations were uncovered the investigation expanded to include a full review of records. Ninety-four impermissible calls were discovered, with all but 10 of them made by the former head men's basketball coach or former assistant coach 1. Thirty-three of the impermissible calls were made to five of the prospects in violation of the "one call per week" rule, while the 61 calls to the other seven prospects violated Bylaw 13.1.3.1.2, the rule that allows coaches to make a monthly call to high school juniors. Forty-four of the 61 impermissible monthly calls to high school juniors were made to the same prospective student-athlete ("prospect 4").

### **2. IMPERMISSIBLE CONTACT. [NCAA Bylaws 13.1.1.1, 13.2.1, 13.5.3 and 13.7.2.1.1]**

On September 20, 2008, the former head men's basketball coach and former assistant coaches 1, 2 and 3 had impermissible, in-person, off-campus contact with prospects 1, 2 and 3 and their families at the former head men's basketball coach's home and provided the young men and their families an impermissible meal. At the time of the impermissible contact, the young men were juniors in

high school and were making unofficial visits to the institution. Additionally, prospects 1 and 3 were provided impermissible automobile transportation by a student-athlete between the institution's campus and the former head men's basketball coach's home.

### **Committee Rationale**

The enforcement staff, the institution, the former head men's basketball coach and former assistant coaches 1, 2 and 3 were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violation occurred.

Prospects 1, 2 and 3 and members of their families made unofficial visits to the institution on the weekend of September 20, 2008. Prospects 1, 2 and 3 were all high school juniors at the time. Two other men's basketball prospects were on official paid visits to the campus at the same time. The three junior prospects, along with the men's basketball coaching staff, the official visitors and others, attended a "tailgate" gathering prior to the institution's football game during the afternoon of Saturday, September 20. According to the former head men's basketball coach, he told the parents of prospect 1 at the tailgate that he was hosting a dinner that evening but it would be an NCAA rules violation for the junior prospects to attend. He claimed that his conversation left the impression that it would be the decision of the prospects whether or not to attend.

However, the former head men's basketball coach was the only person who offered this version of how the junior prospects came to attend the dinner. The parents of prospect 1 recalled being invited to the dinner by former assistant coach 1. The only time they were told it was impermissible for them to attend was after they arrived at the house, when the former head men's basketball coach told them that their presence was a violation and asked them not to tell anyone about being in attendance. The mother of prospect 2 reported that, at the tailgate gathering, she heard a coach and some student-athletes talking about the dinner. The mother of prospect 3 recalled being given an address where everyone was to meet. She did not realize it was the former head men's basketball coach's home until she arrived. None of the junior prospects or their families realized their presence at the dinner was a violation until informed by the former head men's basketball coach after they arrived at the home.

In interviews subsequent to the dinner, the former head men's basketball coach and former assistant coaches 1, 2 and 3 were not truthful regarding the presence of the prospects. These matters are dealt with in detail in Findings B-3, B-4 and B-5 below.

**3. UNETHICAL CONDUCT BY THE FORMER HEAD MEN'S BASKETBALL COACH. [NCAA Bylaws 10.1-(c), 10.1-(d), 19.01.2 and 32.1.4]**

From the 2008-09 academic year through June 14, 2010, the former head men's basketball coach acted contrary to the principle of ethical conduct when he knowingly engaged in violations of NCAA recruiting legislation and failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics by providing false and misleading information to the institution and the enforcement staff and by attempting to influence others to furnish the institution and enforcement staff false and misleading information concerning their involvement in or knowledge of matters relevant to a violation of an NCAA regulation.

**Committee Rationale**

The enforcement staff and the institution were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The former head men's basketball coach is in agreement with the facts regarding the September 20, 2008, dinner and his provision of false or misleading information in his June 14, 2010, interview, but he denied that he attempted to influence the father of prospect 1 when the former head men's basketball coach called him on June 14. The committee finds that the violations occurred.

As set forth in the Introduction and Finding B-2 above, the former head men's basketball coach knowingly violated NCAA legislation on September 20, 2008, when he hosted prospects 1, 2 and 3 and their family members at his home for a dinner and provided the prospective student-athletes and their family members with an impermissible meal. During the dinner, the former head men's basketball coach told the prospective student-athletes and their families that it was a violation of NCAA legislation for them to be in attendance. The former head men's basketball coach informed the prospects and their families that he was not going to tell anyone about their attendance at the dinner and that they should not discuss the matter if they were questioned about it. His knowing provision of impermissible inducements to the prospects violated Bylaw 10.1-(c). When he requested that they not discuss the matter with anyone, he violated Bylaw 19.01.2.

The committee noted that the former head men's basketball coach did not contemporaneously report his involvement in the violations to the athletics administration. Further, in 2008 and 2009 he signed the annual Certification of Compliance forms (See Bylaw 18.4.2 and former Bylaw 30.3.5) attesting that he had no knowledge of or involvement in any rules violations.



In April 2010 the enforcement staff received a photo from an anonymous source of the former head men's basketball coach and prospect 1 taken in the former head men's basketball coach's home during the September 2008 dinner. It touched off an investigation and led to an interview of the former head men's basketball coach and the three former assistant coaches on June 14, 2010. During his interview, the former head men's basketball coach provided false and misleading information to the institution and the NCAA enforcement staff when he denied knowledge of the location where the photograph was taken, even though the photo had been taken in the kitchen of his home. He also provided false and misleading information when he denied knowing the identity of another individual depicted in the photograph. That individual was the wife of former assistant coach 3. His false statements constituted violations of Bylaw 10.1-(d).

Also on June 14, 2010, the former head men's basketball coach failed to protect the integrity of the investigation when he placed a series of phone calls to the father of prospect 1 regarding the September 20, 2008, dinner. The former head men's basketball coach placed the first telephone call prior to the start of the former head basketball coach's interview with the enforcement staff and the institution, leaving a voice message when he was unsuccessful in making personal contact. Following the interview in which he denied knowing where the photo had been taken, and in spite of being instructed by the NCAA investigator not to discuss the matter with anyone else, the former head men's basketball coach made another call to the father of prospect 1, a violation of Bylaw 32.1.4. They spoke personally, with the former head men's basketball coach initially informing prospect 1's father that the photo had been sent to the NCAA. The former head men's basketball coach then asked what prospect 1 and his parents would say if asked about the picture. Prospect 1's father responded that, as the incident had occurred quite some time previously, he would have to consult with his wife and son regarding the matter and speak to the former head men's basketball coach later in the day.

They spoke again later that evening. As later related by the father of prospect 1, the following conversation occurred:

So later that evening when he called me, I told him that they [prospect 1 and his mother] remembered the football game and goin' to the house, goin' to his house and [prospect 1], uh, rem – said he had nothing to do with the picture. He has no idea where the picture would come from. And, uh, [the former head men's basketball coach] asked, he asked, uh, well, if you're questioned what will you guys say? And I said, well, coach, you know, if we're asked we will tell what is the best of our ability, you know, the recollection of what happened that afternoon, that day, that visit. And, uh, he right away said, "Well, [prospect 1's father], we," his tone kinda changed and it was like, uh, "Well, we – I've had a discussion

with my staff and," uh, "we remember the visit and we remember telling you that we were going out for an informal cookout at my house and that it was illegal for you to be there." And I said, "coach, if that's your story then," you know, "we're gonna have two," you know there's, "it's gonna be your word versus mine. I don't remember you telling us that." And said, "Well, that's – my staff remembers telling you and you chose to, you chose to be out – you chose to come after we told you it was illegal for you to be there." And that really turned me off, and it was like I was, uh, I was not ready to listen to anything more he had to say.

The committee concluded that the former head men's basketball coach was trying to influence prospect 1's father to make false and misleading statements to the NCAA enforcement staff, a violation of Bylaw 10.1-(d). There was no reasonable alternative purpose for the former head men's basketball coach to call prospect 1's father that day and, in fact, he made the call after he was explicitly told not to discuss the matter with anyone else. He asked what the family would say and, when it didn't match the version the former head men's basketball coach had shared with the investigators, he informed prospect 1's father that the whole coaching staff was going to say that it was the prospects and their families who made the decision to attend the dinner after they had been warned it was a violation to do so. Prospect 1's father terminated the conversation shortly thereafter.

On August 5, 2010, when the former head men's basketball coach and his staff were re-interviewed, the former head men's basketball coach provided truthful information to investigators.

**4. FAILURE TO COOPERATE AND ACT WITH HONESTY AND SPORTSMANSHIP. [NCAA Bylaws 10.01.1, 11.1.1 and 19.01.3]**

During the 2008-09 through 2009-10 academic years, former assistant coach 1 violated the NCAA's principles of honesty when he failed to provide full and complete information to the institution and enforcement staff regarding his involvement in and knowledge of violations of NCAA legislation.

**Committee Rationale**

The enforcement staff, the institution and former assistant coach 1 were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violation occurred.

As with former assistant coaches 2 and 3, former assistant coach 1 attended the dinner at the former head men's basketball coach's home on September 20, 2008. He saw prospects 1, 2 and 3 there, interacted with them and knew their presence constituted a rules violation. He did not report the violation to anyone within the athletics administration.

When interviewed by the institution and enforcement staff regarding the matter on June 14, 2010, former assistant coach 1 failed to furnish full and complete information relevant to the investigation when he did not disclose that he and the other men's basketball coaching staff members were present at the former head basketball coach's home on September 20, 2008, with the prospects. Further, when shown the photo of the former head men's basketball coach standing beside prospect 1, he stated that he did not know where the picture was taken, nor did he identify former assistant coach 3's wife in the picture. Former assistant coach 1 provided truthful information in a follow-up interview on August 5, 2010.

**5. FAILURE TO COOPERATE AND ACT WITH HONESTY AND SPORTSMANSHIP. [NCAA Bylaws 10.01.1, 11.1.1, 19.01.3 and 32.1.4]**

From the 2008-09 academic year through June 14, 2010, former assistant coach 2 violated the NCAA's principles of honesty when he failed to provide full and complete information to the institution and the enforcement staff and failed to protect the integrity of the investigation.

**Committee Rationale**

The enforcement staff, the institution and former assistant coach 2 were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

All members of the men's basketball coaching staff were interviewed on June 14, 2010, by institutional representatives and the enforcement staff regarding possible NCAA rules violations. During his interview, former assistant coach 2 failed to furnish full and complete information relevant to the investigation by not disclosing that he and the other men's basketball coaching staff members were present at the former head men's basketball coach's home on September 20, 2008, when prospects 1, 2 and 3 attended the dinner. Further, former assistant coach 2 stated he did not recognize the location where the picture was taken and he did not identify former assistant coach 3's wife, who was also in the picture. He also denied that prospect 1 had been to the home of the former head men's basketball coach. When re-interviewed on August 5, 2010, former assistant

coach 2 provided truthful information regarding the dinner and the prospects' presence there.

Also on June 14, 2010, former assistant coach 2 failed to protect the integrity of the investigation following his interview. Despite being specifically instructed not to discuss the interview with anyone, shortly after the interview occurred he met with the former head men's basketball coach and talked about who was in the picture and where it was taken. They also reviewed the other topics that had been covered during the interview.

**6. FAILURE TO COOPERATE AND ACT WITH HONESTY AND SPORTSMANSHIP. [NCAA Bylaws 10.01.1, 11.1.1, 19.01.3 and 32.1.4]**

From the 2008-09 academic year through June 14, 2010, former assistant coach 3 violated the NCAA's principles of honesty when he failed to provide full and complete information to the institution and the enforcement staff and failed to protect the integrity of the investigation.

**Committee Rationale**

The enforcement staff, the institution and former assistant coach 3 were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

Former assistant coach 3 also failed to furnish full and complete information relevant to the investigation during his June 14, 2010, interview. Specifically, he failed to disclose that he and the other men's basketball coaching staff members were present at the former head men's basketball coach's home on September 20, 2008. The committee also noted that former assistant coach 3 stated he did not recognize the location where the photo of the former head men's basketball coach and prospect 1 had been taken, nor did he identify his wife as one of the individuals appearing in the photo.

Former assistant coach 3 also failed to protect the integrity of the investigation on June 14, 2010. Following his interview, during which he was specifically instructed not to discuss the interview itself or the subject matter with anyone, he met and spoke with the former head men's basketball coach about the topics that had been discussed.

Former assistant coach 3 provided truthful information during a follow-up interview on August 5, 2010.

**7. FAILURE TO MONITOR AND FAILURE TO PROMOTE AN ATMOSPHERE FOR COMPLIANCE. [NCAA Bylaw 11.1.2.1]**

From August 1, 2007, to July 29, 2009, the former head basketball coach failed to promote an atmosphere for compliance and failed to monitor the compliance activities of his assistant men's basketball coaches that led to the violations set forth in Finding B-1 and B-2.

**Committee Rationale**

The enforcement staff and the institution were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The former head men's basketball coach was in agreement regarding the facts of Finding B-2, but he disagreed that the facts of Finding B-1 established this violation. The committee finds that the violation occurred.

As set forth in Finding B-2 above, on September 20, 2008, the former head men's basketball coach knowingly committed and allowed rules violations to occur. Further, he asked three prospects and their families not to mention the violations, and he failed to report the violations to the athletics administration. As the violations were being uncovered, he contacted the father of prospect 1 and provided a version of the events he believed could mitigate the violations.

By his failure to require that his staff keep complete, timely and contemporaneous phone logs, the former head men's basketball coach also failed to monitor his staff regarding the activities leading to the violations detailed in Finding B-1. During the relevant timeframe the institution had a system in place for monitoring phone calls, but the former head men's basketball coach failed to follow it personally or ensure that his assistant coaches did the same. All the coaches admitted that they did not keep complete or accurate logs of their calls and did not turn them into the compliance office on a timely and regular basis; the responsibility for ensuring compliance with this and other rules rests squarely with the head coach of a program. The former head men's basketball coach did not designate a time that records should be turned in, nor did he conduct even a cursory review of the logs so as to assist in the compliance effort.

Head coaches bear primary responsibility for monitoring all aspects of their programs and promoting an atmosphere for compliance. It is also presumed that head coaches know or should know of violations in their programs, particularly when the violations occur over an extended period of time. Due to his direct involvement in the violations and his unethical conduct during the investigation, the committee concluded that the former head men's basketball coach failed to rebut the presumption that he was aware of the violations

and those responsible for committing them. His conduct demonstrated a failure to monitor and promote an atmosphere for rules compliance.

**8. FAILURE TO MONITOR BY THE INSTITUTION. [NCAA Constitution 2.8.1]**

The scope and nature of the violations set forth in Finding B-1 demonstrate that between August 1, 2007, and July 29, 2009, the institution failed to monitor the men's basketball coaching staff's telephone contacts with prospective student-athletes and their relatives.

**Committee Rationale**

The enforcement staff and the institution were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

As set forth in Finding B-7 above, between August 1, 2007, and July 29, 2009, the men's basketball coaching staff did not sufficiently record information concerning telephone calls made to prospective student-athletes and their relatives or report it to the appropriate athletics department officials. Additionally, the institution did not have adequate systems in place to monitor whether telephone calls made by the men's basketball coaching staff members to prospective student-athletes or their relatives complied with NCAA legislation.

The institution has acknowledged that it failed to monitor the men's basketball phone records during the period in question. The system in place at the time the violations began generally consisted of the compliance staff auditing the written logs submitted by the coaching staffs. This method was only effective if all calls made by all coaches were recorded properly and in a timely fashion, which, as set forth in the rationales for Findings B-1 and B-7, the coaching staff failed to do. The system did not include cross-checking phone bills with the submitted logs, a common compliance practice in Division I, which likely would have revealed that the phone logs were not complete or accurate. Thus, the violations detailed in Finding B-1 occurred undetected until the Basketball Focus Group, an arm of the enforcement staff, began a review of men's basketball phone records at the institution.

**C. SECONDARY VIOLATIONS: [NCAA Bylaws 11.5.1, 11.7.1.1.1.1, 13.01.4, 13.02.7, 13.02.14-(c), 13.02.14-(e), 13.1.2.1, 13.1.2.1.1, 13.1.3.4.1, 13.1.3.5.1, 13.1.6.2, 13.2.1.1-(h), 13.11.1, 13.11.1.1, 13.6.4.1, 13.6.7.1.1 and 13.14.1]**

- a. On October 9, 2009, prospect 1 and his parents arrived in Knoxville, Tennessee, for an official paid visit and checked into a hotel at 12:15 a.m., triggering the start of the visit. The visit was scheduled to begin at 10:30 a.m. on October 9. The visit concluded at 11:30 a.m. on October 11. As a result, prospect 1's official paid visit lasted 58 hours and 15 minutes. [NCAA Bylaw 13.6.4]
- b. On October 30, 2009, a prospective men's basketball student-athlete and his mother arrived in Knoxville for an official paid visit. The visit was scheduled to begin at 10 a.m. that day. However, they checked into the hotel at 3 a.m., triggering the start of the prospect's official paid visit to the institution. The visit ended at 10 a.m. on November 1. As a result, the prospect's official paid visit lasted 55 hours. [NCAA Bylaw 13.6.4]
- c. On October 29, 2009, a prospective men's basketball student-athlete flew into Knoxville and checked into a hotel for an official paid visit that was scheduled to begin at 10 a.m. on October 30, 2009, and conclude at the same time on November 1. On October 30, 2009, the prospect's parents drove from their home to Knoxville and checked into the hotel at 7:30 a.m., triggering the start of the prospect's official paid visit to the institution. As a result, the visit lasted 50.5 hours. [NCAA Bylaw 13.6.4]
- d. Between January 3 and 9, 2010, members of the football coaching staff made 16 impermissible recruiting telephone calls to five prospective student-athletes after the young men had reported to the U.S. Army All-American Bowl football contest in San Antonio, Texas. The calls were placed subsequent to the football staff's receipt of information in December 2009 from the institution's compliance staff that such telephone calls were impermissible. [NCAA Bylaw 13.1.7.2]
- e. On October 12, 2009, the former head football coach permitted a football recruiting intern to make in-person, off-campus contacts with high school administrators during a recruiting trip to the high school from which the intern had graduated. This trip and these contacts occurred after the institution's director of football operations informed both the former head football coach and the intern on or about October 10, 2009, that the intern was not permitted to enter a high school's property while accompanying a football coach on a recruiting trip. [NCAA Bylaws 11.5.1, 11.7.1.1.1.1, 13.1.2.1 and 13.1.2.1.1]
- f. On or about September 25, 2009, the former assistant football coach gave approximately \$40 to a student intern in the football office who was also a member of the institution's Orange Pride program. The money was given to assist with costs associated with an automobile trip that the intern and another student

intern were making between Knoxville, Tennessee, and Duncan, South Carolina, a round trip of approximately 356 miles. The former assistant football coach provided the funds to the student interns with full knowledge that they were traveling to Duncan to attend a high school football game. While at the game, both interns and a third member of the Orange Pride program made impermissible, in-person, off-campus contact with three prospective student-athletes. [NCAA Bylaws 13.01.4, 13.02.14-(e), 13.1.2.1.1 and 13.14.1]

#### **D. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions finds that this case involved major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.]

The committee also considered the institution's cooperation in the processing of this case. Cooperation during the infractions process is addressed in Bylaw 19.01.3 - **Responsibility to Cooperate**, which states in relevant part that, "All representatives of member institutions shall cooperate fully with the NCAA enforcement staff, Committee on Infractions, Infractions Appeals Committee and Board of Directors. The enforcement policies and procedures require full and complete disclosure by all institutional representatives of any relevant information requested by the NCAA enforcement staff, Committee on Infractions or Infractions Appeals Committee during the course of an inquiry." Further, NCAA Bylaw 32.1.4 - **Cooperative Principle**, also addresses institutional responsibility to fully cooperate during infractions investigations, stating, in relevant part, "The cooperative principle imposes an affirmative obligation on each institution to assist the enforcement staff in developing full information, to determine whether a possible violation of NCAA legislation has occurred and the details thereof." The committee determined that the cooperation exhibited by the institution met its obligation under Bylaws 19.01.3.3 and 32.1.4. The cooperation the institution demonstrated in this case is in stark contrast to the conduct and failures of the former men's basketball coaching staff.

#### **Penalties imposed by the Committee on Infractions**

1. Public reprimand and censure.
2. Two years of probation from August 24, 2011, through August 23, 2013. (The institution proposed a two-year term of probation commencing with the date the institution submitted its response to the NCAA's notice of allegations, with annual



compliance reports to the NCAA and Southeastern Conference during the probationary period).

3. The former head men's basketball coach allowed prospective student-athletes and members of their family to attend a dinner at his home when he knew doing so violated NCAA rules. He told the prospects and their family members not to tell anyone about their attendance at the gathering, and he failed to report the knowing violation to the athletics administration. He provided false and misleading information to investigators when questioned about the incident, and he attempted to influence the father of one of the prospects to give investigators a certain version of the events. Therefore, the committee imposes a three-year show-cause period upon the former head men's basketball coach. During this period, which begins on August 24, 2011, and ends August 23, 2014, the committee prohibits the former head men's basketball coach from conducting any and all recruiting activities as defined by Bylaw 13.02.13.

Within 30 days of the release of this report or 30 days after the hiring of the former head men's basketball coach, whichever is later, any employing institution shall file a report with the office of the Committees on Infractions setting forth its agreement with these restrictions or asking for a date to appear before the committee to contest the restrictions. Every six months thereafter through the end of the period of the show-cause order, the employing institution shall file further reports detailing its adherence to these restrictions.

4. Former assistant coaches 1, 2 and 3 violated the principles of cooperation and honesty when they failed to furnish full and complete information relevant to the investigation of the September 20, 2008, dinner at the home of the former head men's basketball coach. Therefore, the committee imposes a one-year show-cause order upon them. During this period, which begins on August 24, 2011, and ends August 23, 2012, the committee prohibits former assistant coaches 1, 2 and 3 from conducting any and all recruiting activities as defined by Bylaw 13.02.13.

Within 30 days of the release of this report or 30 days after a member institution hires former assistant coaches 1, 2 or 3, any employing institution shall file a report with the office of the Committees on Infractions setting forth its agreement with these restrictions or asking for a date to appear before the committee to contest the restrictions. Every six months thereafter through the end of the show-cause period, the employing institution shall file further reports detailing its adherence to these restrictions.

5. During this period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes' eligibility for admission, financial aid, practice or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by October 15, 2011, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by June 15 of each year during the probationary period. Particular emphasis should be placed on recording and tracking all recruiting activities, particularly telephone calls. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
  
6. During the period of probation, the institution shall:
  - a. Inform prospective student-athletes in men's basketball that the institution is on probation for two years and explain the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent.
  - b. Publicize the information annually in men's basketball media guides (or web posting), as well as in a general institution alumni publication to be chosen by the institution with the assent of the office of the Committees on Infractions. A copy of the media guides, alumni publication, and information included in recruiting material shall be included in the compliance reports to be submitted annually to the Committees on Infractions.
  
7. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

**Penalties imposed by the institution and conference**

8. Prohibited the current men's basketball coaches and staff from providing off-campus occasional meals, per Bylaw 16.11.1.5, to the men's basketball team during the 2011-12 academic year. (Institution imposed)
9. Reduced by 50 percent (from 10 to five) the number of football coaching staff members permitted to make recruiting telephone calls to prospective student-athletes during the first day of the November 2011 contact period. (Institution imposed)
10. Reduced by six (from 168 to 162) the number of men's basketball permissible recruiting person days for the spring 2011 evaluation period. (Institution imposed)
11. On September 9, 2010, reduced the former head men's basketball coach's total compensation by \$1.5 million through June 30, 2015, and delayed (by a period of two years and seven months) a \$500,000 retention bonus that he was scheduled to receive on November 30, 2012. (Institution imposed)
12. On September 9, 2010, reduced the respective salaries of former assistant coaches 1, 2 and 3 by approximately 25 percent. (Institution imposed)
13. On September 9, 2010, prohibited the former head men's basketball coach and former assistant coach 2 from all off-campus recruiting activities for a period of one year; former assistant coach 1 for a period of nine months, and former assistant coach 3 for a period of three months. (Institution imposed)
14. Terminated the employment of the former head men's basketball coach and former assistant coaches 1, 2 and 3 on March 21, 2011. (Institution imposed)
15. In the sport of men's basketball, during the fall 2010 contact period when recruiting calls were generally unlimited, restricted calls to senior prospective student-athletes to two calls per week (except for days of permissible contacts). (Institution imposed)
16. Reduced by 50 percent (from two calls per week to one call per week) the number of calls permitted to high school senior prospective student-athletes by the former head men's basketball coach and his staff from September 24, 2010, to August 1, 2011. (Institution imposed)

17. On November 18, 2010, suspended the former head men's basketball coach from all coaching-related duties during the first eight SEC men's basketball contests. (Conference imposed)
18. Prohibited recruiting phone calls for a two-week period for the former head men's basketball coach (February 24 to March 4, 2010), and for a five and one-half month period (January 1 to June 15, 2010) for former assistant coach 1. (Institution imposed)
19. In the sport of men's basketball, prohibited all recruiting telephone calls during the week of August 7 through August 14, 2010. (Institution imposed)
20. Prohibited the men's basketball staff from making any off-campus recruiting contacts during one week of the September/October 2010 contact period. (Institution imposed)
21. In the sport of men's basketball, reduced by 20 percent (from 130 to 104) the number of permissible recruiting-person days for the 2010-11 academic year. (Institution imposed)
22. Prohibited former assistant coach 1 from off-campus recruiting activities for a 10-day period during the summer 2010 evaluation period. (Institution imposed);
23. In the sport of men's basketball, reduced by 33 percent (from 12 to eight) the number of permissible official visits during the 2010-11 academic year, and prohibited official visits during two home football game weekends in September 2010. (Institution imposed)
24. Required the entire men's basketball staff to attend a 2010 NCAA Regional Rules Seminar. (Institution imposed)
25. Permanently restricted all non-coaching football staff members from recruiting-related travel. (Institution imposed)
26. Prohibited the recruitment of football prospective student-athletes from the high school attended by the intern from December 18, 2009, through September 1, 2010. (Institution imposed)
27. Prohibited the football staff from sending any recruiting correspondence, including National Letters of Intent or Southeastern Conference financial aid agreements, to prospective student-athletes at the high school attended by the

intern from December 22, 2009, through January 31, 2010, and limited the staff's calls to once per week during that period. (Conference imposed)

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As required by NCAA legislation for any institution involved in a major infractions case, the University of Tennessee, Knoxville shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning August 24, 2011.

Should the University of Tennessee, Knoxville or any involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations. An institution that employs an individual while a show-cause order is in effect against that individual, and fails to adhere to the penalties imposed, subjects itself to allegations and possible findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

#### NCAA COMMITTEE ON INFRACTIONS

Britton Banowsky  
John S. Black  
Melissa (Missy) Conboy  
Brian P. Halloran  
Eleanor W. Myers  
James O'Fallon  
Dennis E. Thomas, chair

## APPENDIX ONE

### CASE CHRONOLOGY.

#### 2009

April 6 - Information related to impermissible telephone calls and an impermissible contact involving the University of Tennessee, Knoxville, men's basketball coaching staff and a prospect was reported to the enforcement staff. A subsequent review of phone records revealed a series of impermissible calls to prospects.

November 10, 2009, to February 11, 2010 - The enforcement staff conducted off-campus interviews regarding the institution's football program.

#### 2010

March 16 to 24 - The enforcement staff and institution conducted on-campus interviews with members of the football coaching staff and support staff members within the football program.

April 14 to May 7 - The enforcement staff and the institution conducted additional off-campus interviews regarding the football program.

June 14 - The enforcement staff and institution conducted on-campus interviews of the former head men's basketball coach and former assistant coaches 1, 2 and 3.

June 28 - The enforcement staff received information from a confidential source that the former head men's basketball coach contacted prospect 1's father regarding matters relating to the investigation.

August 5 - The enforcement staff and the institution conducted a second on-campus interview with the former head men's basketball coach and former assistant coaches 1, 2 and 3.

August 25 and 26 - The enforcement staff and institution conducted off-campus interviews with the former head football coach and other former members of the institution's football coaching staff.

September 10 - The enforcement staff sent a notice of inquiry to the institution.

September 24 and 28 - The enforcement staff and institution conducted further off-campus interviews involving both the men's basketball and football programs.

## **2011**

February 22 - The enforcement staff issued a notice of allegations to the institution and the involved parties in this case.

May 20 - The enforcement staff received the institution's response to the notice of allegations and the former assistant football coach's response to the notice of allegations.

May 21 - The enforcement staff received responses to the notice of allegations from former assistant coaches 1, 2 and 3.

May 23 - The enforcement staff received responses to the notice of allegations from the former head men's basketball coach.

May 23 - The enforcement staff received responses to the notice of allegations from the former head football coach.

May 24 - A prehearing conference was conducted with the attorney for the institution

May 25 - A prehearing conference was conducted with the attorney for the former assistant football coach.

May 25 - A prehearing conference was conducted with the attorney for former assistant coaches 1, 2 and 3.

May 26 - A prehearing conference was conducted with the attorneys for the former head football coach.

May 26 - A prehearing conference was conducted with the attorney for the former head men's basketball coach.

June 11 – The institution appeared before the NCAA Division I Committee on Infractions.

August 24 – Infractions Report No. 354 is released.

## APPENDIX TWO

### **CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S MAY 20, 2011, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

The institution has purchased and implemented a new compliance software system (ACS). This system will greatly increase the abilities of the institution's athletics compliance staff and all institutional sports programs to organize, track and record telephone recruiting calls, contacts and evaluations;

Extensive and increased rules education has been and will continue to be conducted with all coaches pertaining to off-campus contacts, permissible recruiters, official and unofficial visits, occasional meals, telephone calls, reporting of violations, and ethical conduct expectations;

The compliance staff will continue to meet with the men's basketball student-athletes at least twice per semester to deliver NCAA and SEC rules-education content;

A new, strict policy on telephone call violations has been developed and delivered to the institution's chancellor for review. The policy contains a range of progressive punitive actions against individuals and sports programs for violations involving impermissible recruiting telephone calls. A copy of the final policy will be provided to the Committee on Infractions in the institution's first annual compliance report;

It was determined that no member of the institution's new student host organization may be employed in the athletics department; and

The chancellor has established a requirement that all institution coaches sign and submit quarterly compliance statements.

Letters of admonishment were issued to the former head football coach and the recruiting intern.



# Exhibit 12



**UNIVERSITY OF TENNESSEE - CHATTANOOGA**  
**PUBLIC INFRACTIONS REPORT**  
**September 23, 2010**

**A. INTRODUCTION.**

This case was resolved through the summary disposition process, a cooperative endeavor in which the Committee on Infractions reviews infractions cases submitted in written form. This process is used as an alternative to a formal hearing, and may be utilized only when the NCAA enforcement staff, the member institution and involved individuals agree to the facts of an infractions case and that those facts constitute major violations. The summary report was reviewed by the committee during its June 2010 meeting. The committee accepted the findings in the report and imposed minimal additional penalties. In a letter dated June 18, the committee informed the institution of its acceptance of the report, the imposition of the additional penalties and offered the institution the option to contest the penalties at a hearing. In a letter dated June 30, the university informed the committee that it accepted the additional penalties.

The case centered on impermissible text messages and telephone calls made to prospective student-athletes, primarily in the sports of football and men's basketball. This was the seventh summary disposition case involving either impermissible text messaging, electronic mail or telephone calls the committee has reviewed in the last two years. As an outgrowth of the impermissible communications, there was also a finding that the head men's basketball coach did not promote an atmosphere of compliance within the men's basketball program in that he did not adequately monitor text message and telephone communication with prospective student-athletes. In addition, at times, he did not protect the integrity of the investigation. Finally, there was a finding that the institution failed to monitor coaches' communications with prospective student-athletes.

The violations were detected as a result of the institution's athletics department implementing a new telephone monitoring system in August 2008. During the compliance staff's January 2009 audits of the football program's communications, impermissible text message and telephone contact violations were uncovered. The institution self-reported those violations to the NCAA's enforcement staff in a letter dated January 26, 2009. A subsequent investigation revealed additional telephone and text messaging violations in other sports programs, which were also self-reported.

The committee agreed with the enforcement staff and the institution that this is a major infractions case. Findings B-1 and B-2 are both major violations due to the large number of impermissible text messages and phone calls. Further, many, if not most of these communications, were not inadvertent. Additionally, each of the involved individuals in

Findings B-1 and B-2 agree that the case is major and that their involvement in the violations was significant enough for them to be considered "at risk" for findings of major violations against them. Finally, some of those impermissible communications provided more than a minimal recruiting advantage.

A member of the Southern Conference, the institution has an enrollment of approximately 10,500 students. The institution sponsors eight men's and nine women's intercollegiate sports. This was the institution's second major infractions case. The institution appeared before the committee in 1966 for a case involving the football program.

## **B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **1. IMPERMISSIBLE RECRUITING CONTACTS, TELEPHONE CALLS AND TEXT MESSAGES. [NCAA Bylaws 13.1.1.3, 13.1.3.1.1 and 13.4.1.2]**

From September through December 2008, an assistant football coach ("assistant football coach A") violated the provisions of NCAA recruiting communication legislation by sending approximately 113 impermissible text messages and placing approximately six impermissible telephone calls to prospective student-athletes. Specifically:

- a. Beginning in September and through December 2008, assistant football coach A sent impermissible text messages to five football prospective student-athletes, ("prospects 1, 2, 3, 4 and 5", respectively.) [Note: Prospect 5 was a transfer student-athlete from a four-year institution.]
- b. Beginning in November and through December 2008, assistant football coach A engaged in impermissible telephone contact by placing more than one call per week to a prospective student-athlete and by placing impermissible telephone calls to a four-year prospective student-athlete. Specifically:
  - (1) On November 29, 2008, assistant football coach A placed one impermissible call to prospect 2 after the one permissible call was made November 25.
  - (2) Between November 7 and December 3, 2008, assistant football coach A placed five impermissible calls to prospect 5, even though the institution had not yet obtained written permission from prospect 5's previous institution to do so.

### **Explanation of Violation**

The enforcement staff, the institution and assistant coach A agreed with the facts of this finding and that major violations occurred. As previously mentioned the institution self-detected most of the violations in this finding and reported them to the NCAA. The committee finds that the violations occurred.

### **Background**

The current director of compliance was hired on March 1, 2007. Prior to that date, the institution's telephone monitoring system consisted of a procedure whereby coaches were to record all telephone calls placed to prospective student-athletes on telephone contact logs and submit those records to the compliance staff on a monthly basis. The compliance director reported that, prior to assuming her duties, coaches were not held accountable for failing to submit telephone contact logs. As a result, some coaching staffs simply ignored the requirement to submit these records. She stated that, after she assumed her current duties in March 2007, she continued to experience difficulty in obtaining telephone contact logs from some, but not all, coaching staff members. She further reported that the athletics department intended to implement a policy in August 2009 whereby recruiting restrictions would be placed on coaches who failed to submit telephone contact logs on a timely basis. The compliance director explained that, when she obtained telephone contact logs, she reviewed them to ensure that the information reported was consistent with NCAA legislation and, after this review, filed the records in the compliance office. As set forth in Finding B-5, the enforcement staff and institution agreed that the telephone monitoring system at that time was inadequate and was a contributing factor in the violations of text-message and telephone contact legislation.

In October 2008, the institution enhanced the telephone monitoring system by performing random audits of telephone contact logs submitted by coaching staff members. As a test, the first audit involved the women's volleyball program, a program which had consistently complied with telephone monitoring policies. The audit consisted of compiling various documents including cell phone bills, office telephone usage records, telephone contact logs and official and unofficial visit records. From these records, a list of all phone numbers used to contact prospective student-athletes was derived. Cell phone bills and office telephone usage records were gathered to determine when coaching staff members placed calls to each prospective student-athlete. Next, the university compared the information recorded on the telephone contact logs to the information assembled from the cell phone bills and office telephone usage records to determine whether the information recorded by coaching staff members was accurate. Finally, the institution reviewed the telephone records to determine if the calls placed to prospective student-athletes were within the limits of NCAA telephone communication legislation. When reviewing cell phone bills, the university also checked to ensure that text messages

had not been sent to prospective student-athletes. The university did not find any text-message or telephone contact violations during the test audit of the women's volleyball program.

Unfortunately, as set forth in Finding B-5, these enhanced telephone monitoring procedures were, although an improvement, still somewhat inadequate and additional violations of NCAA text-message and telephone occurred after they were implemented. The inadequacy stemmed from the fact that university-issued cell phones were not provided to all coaches and, as a result, some coaches were allowed to use their personal cell phones to place recruiting calls. Some of these calls were impermissible, and impermissible text messages were also sent using personal cell phones. The athletics department and compliance staff did not initially request copies of cell phone bills from coaches who used personal cell phones for recruiting and thus these records were not audited for NCAA rules compliance.

#### Discovery of the Violations

The compliance director reported that in January 2009, while reviewing telephone contact logs that assistant football coach A had submitted, she noticed that he did not record any telephone contacts for November or December 2008. Assistant football coach A was the recruiting coordinator for the football program and had been recruiting extensively off campus during those months. Therefore, the compliance director thought it highly unlikely that assistant coach A did not place any phone calls to prospective student-athletes. In response, the compliance director decided to review assistant coach A's office telephone and cell phone records. Assistant coach A had an institutionally funded cell phone, and his most recent cell phone bills were on file with the institution. The compliance director identified three prospective student-athletes she knew assistant coach A was recruiting, prospects 1, 2 and 5. She collected assistant coach A's office telephone and cell phone records in an effort to determine whether he had contacted the prospective student-athletes. This review revealed that assistant coach A had sent impermissible text messages and placed impermissible telephone calls to the three prospective student-athletes in November and December 2008. After discovering these violations, the compliance director decided to collect the numbers of all other prospective student-athletes recruited by the football program and reconciled those numbers with the football staff's telephone records. That review uncovered additional violations involving prospects 3 and 4. These violations were submitted to the NCAA in a January 26, 2009, self-report along with student-athlete reinstatement requests. A more expansive audit was initiated as a result of the discovery of violations involving assistant coach A.

### Scope of the Audit

The institution's initial audit was limited to contacts in November and December 2008 because those records were the only ones readily available at that time. After reviewing the initial self-report, the enforcement staff contacted the institution and it was agreed to conduct a more comprehensive audit of the football program's telephone records covering the period from November 2006 to May 2007.

The institution collected all available personal cell phone records from those coaches who were not provided an institutionally funded cell phone and were still on staff at the institution. Unfortunately, there were only two football coaches on staff at that time who were on the staff between November 2006 and May 2009, assistant football coach A and another assistant football coach ("assistant football coach B"). The enforcement staff contacted three additional former football coaching staff members who were previously on staff between November 2006 and May 2009 and who were currently coaching at other NCAA member institutions -- ("former assistant football coach 1"), ("former assistant football coach 2") and ("former assistant football coach 3") -- to obtain their personal cell phone bills to include in the audit.

The institution's audit of assistant football coach A's and B's records detected a number of additional text-message and telephone contact violations involving assistant football coach A in September and October 2008. No violations involving assistant football coach B were discovered. The enforcement staff's audit did not detect any violations involving former assistant football coach 1 or former assistant football coach 3 but detected three impermissible telephone calls involving former assistant football coach 2 in February 2008. The enforcement staff and institution agreed that the violations involving former assistant football coach 2 were secondary in nature but should be included in the case since they were similar to the major violations and, therefore, are detailed in Finding B-3-a.

### Assistant Football Coach A's Involvement in Impermissible Text Messages.

Assistant football coach A acknowledged involvement in the text-message violations as well as an awareness of NCAA legislation that prohibited coaches from sending text messages to prospective student-athletes. In explaining the violations, he said that, in the fall of 2008, before the conclusion of the football season, it was made known to the football staff that the head coach at the time would not be retained after the conclusion of the 2008 season, and that the new head football coach would determine whether any of the assistant coaches would be retained. Assistant football coach A said he wanted to remain at the institution and, as a result, he thought he needed to demonstrate that he was an effective recruiter and thus should be retained. He said that his desire to remain at the institution caused him to make poor decisions and violate NCAA recruiting

communication legislation. He said it was easier and more efficient instead to send text messages to prospective student-athletes. He reported that, once he began sending the text messages: "I just got, I just got caught up. Trying to save my job. I was at my weakest moment ... kids were texting me, I was texting them back, I just made a mistake." As noted previously, assistant coach A currently agrees that he committed major violations and that this is a major case because the violations were not isolated and the text- message violations were not inadvertent.

#### Assistant Football Coach A's Involvement in Impermissible Telephone Calls.

In reference to the impermissible telephone call to prospect 2 as set forth in Finding B-1-b-(1), assistant football coach A did not have a recollection of committing that particular violation. However, he conceded that his telephone records demonstrated that he placed one additional impermissible call to prospect 2. Assistant football coach A said typically when he placed calls in his office, he recorded recruiting calls on his telephone contact log. However, he said there were times when he was off-campus recruiting when it was difficult to record recruiting calls and conceded that he may not have recorded such calls. As previously noted, assistant football coach A did not record any recruiting telephone calls on his November 2008 telephone contact logs he submitted to the compliance staff.

In reference to the impermissible calls to prospect 5 as set forth in Finding B-1-b-(2), assistant football coach A acknowledged that he knowingly placed calls to prospect 5 prior to obtaining a release from the four-year institution prospect 5 was attending at the time. Assistant football coach A placed five impermissible telephone calls to prospect 5 on November 7, 9, 12 and 30, and on December 3, 2008, while the prospect was still enrolled at the four-year institution and prior to obtaining a release to contact him. The four-year institution later provided a release for the institution's football staff to contact prospect 5 on the afternoon of December 3. Assistant football coach A admitted that he knowingly placed the impermissible calls and characterized this action as "stupid and unprofessional." He also acknowledged that he did not record any of those calls on his November and December 2008 telephone contact logs he submitted to the compliance staff. He stated: "Well, I wasn't trying to, I wasn't worried about phone logs, I wasn't worried about records 'cause there was a good possibility I wasn't even going to be at Chattanooga (due to the termination of the head football coach). And I was just kind of just working blindly and not even thinking, 'cause I didn't know if I was going to be here. And I didn't pay attention to those little, those, stuff like that." He stated that he made a mistake by not recording the calls and was not attempting to conceal NCAA violations.

**2. IMPERMISSIBLE RECRUITING CONTACTS, TELEPHONE CALLS AND TEXT MESSAGES. [NCAA Bylaws 13.1.3.1.2, 13.1.3.4.1 and 13.4.1.2]**

In 2008 and 2009, the men's basketball program violated the provisions of NCAA recruiting communication legislation by sending approximately 23 impermissible text messages and placing 61 impermissible phone calls to prospective student-athletes. Specifically:

- a. Beginning in April 2008 and through July 2009, the men's basketball program sent approximately 23 impermissible text messages to four prospective student-athletes. Specifically:
  - (1) In April 2008, the head men's basketball coach ("head men's basketball coach") sent approximately two impermissible text messages to a prospective student-athlete ("prospect 6"). Additionally, between April 30 and July 9, 2009, the head men's basketball coach sent 16 impermissible text messages to another prospective student-athlete ("prospect 7"). Also, on July 27, 2009, the head men's basketball coach sent one impermissible text message to a third prospective student-athlete ("prospect 8").
  - (2) On August 13, 2008, an assistant men's basketball coach ("assistant men's basketball coach A"), sent two impermissible text messages to the aunt of a prospective student-athlete ("prospect 9"). Additionally, on July 27, 2009, assistant men's basketball coach A sent one impermissible text message to prospect 7.
  - (3) On July 6, 2008, an assistant men's basketball coach ("assistant men's basketball coach B"), sent one impermissible text message to prospect 7.
- b. Beginning in May 2008 and through August 2009, the men's basketball program placed approximately 61 impermissible calls to two prospective student-athletes. Specifically:
  - (1) From May 22 through August 14, 2008, and over the course of 12 weeks, assistant men's basketball coach A placed 29 impermissible calls to prospect 9 after the two permissible phone calls were made earlier during those weeks. Additionally, on April 6 and 7, and July 6, 2009, assistant men's basketball coach A placed three impermissible phone calls to prospect 7, a four-year college



prospect, after the one permissible call was made earlier during those weeks.

- (2) From July 16 through August 1, 2008, and over the course of three weeks, assistant men's basketball coach B placed 18 impermissible phone calls to prospect 9 after the two permissible phone calls were made earlier during those weeks. Additionally, on July 7 and 11, 2009, assistant men's basketball coach B placed two impermissible phone calls to prospect 7 after the one permissible call was made earlier during those weeks.
- (3) On July 11, 2009, the head men's basketball coach placed one impermissible phone call to prospect 7 after the one permissible call was made earlier that week.
- (4) On July 10 and 11, 2008, the former director of men's basketball operations placed eight impermissible phone calls to prospect 9, even though he was not a permissible recruiter and did not count toward the countable coaching limit.

### **Explanation of Violation**

The enforcement staff, the institution, the head men's basketball coach and assistant men's basketball coaches A and B agreed with the facts of this finding and that major violations occurred. The committee finds the violations occurred.

### **Detection of the men's basketball violations.**

As previously noted, the enforcement staff and institution agreed that due to the number of text-message and telephone contact violations discovered in the football program and the apparent inadequate telephone monitoring system, a comprehensive audit of all sport programs' text-message and telephone contact with prospective student-athletes was needed. At the enforcement staff's request, the institution began conducting audits of the men's and women's basketball program July 31, 2009. The institution's audit uncovered some, but not all, of the violations outlined in Finding B-2. Specifically, in an October 30, 2009, letter to the enforcement staff, the institution reported that its internal audit uncovered the text messages from the head men's basketball coach and from assistant men's basketball coach A to prospect 8 [Findings B-2-a-(1) and B-2-a-(2)], from the head men's basketball coach to prospect 6 [Finding B-2-a-(1)] and from assistant men's basketball coach B to prospect 7 [Finding B-2-a-(3)]. However, the institution's internal audit did not reveal the head men's basketball coach's text

messages to prospect 7 [Finding N B-2-a-(1)] or assistant men's basketball coach A's text messages to prospect 9's aunt [Finding B-2-a-(b)]. The enforcement staff discovered those violations during an independent review of the men's basketball telephone records, which were supplied by the institution as part of its submission of internal audit findings. Similarly, while the institution discovered the impermissible telephone contact between the former director of men's basketball operations, and prospect 9 [Finding B-2-b-(4)], it failed to discover the impermissible telephone contact between the men's basketball coaches and prospect 9 or prospect 7 [Finding B-2-b-(1), 2-b-(2) and 2-b-(3)]. Again, the enforcement staff discovered those violations during its independent review of the men's basketball telephone records. The enforcement staff believes the institution did not initially discover those violations due to isolated human error, as well as the voluminous number of records the institution was required to review. While the enforcement staff contemplated adding those violations as an additional failure to monitor, it ultimately decided not to do so, based on the aforementioned factors.

#### The Head Men's Basketball Coach's Involvement in Impermissible Texting.

Upon being notified that the men's basketball telephone records would be audited as requested by the enforcement staff, the head men's basketball coach disclosed some of the texting violations that occurred within his program in a memo to the compliance director. In a subsequent interview with the enforcement staff and the institution conducted in February 2010, the head men's basketball coach acknowledged involvement in the text-message violations as well as an awareness of NCAA legislation that prohibited coaches from sending text messages to prospective student-athletes. After this interview, the enforcement staff's audit of the records uncovered an additional 15 text messages from the head men's basketball coach to prospect 7, which were sent in early June 2009. As a result, a second interview was conducted with the head men's basketball coach, in part to discuss these text messages to prospect 7. When questioned about the additional 15 text messages to prospect 7, the head coach said he did not recall sending such messages. He reported that prospect 7 had verbally committed to the institution prior to June 2, and that between June 2 and July 9, he would have viewed him as a student-athlete on his team. However, the head coach admitted awareness that he was not permitted under NCAA rules to send text messages to prospect 7 because he had not yet signed a National Letter of Intent (NLI), a written offer of admission or financial aid. He explained that he communicated frequently with his student-athletes via text message throughout the summer, and that if he sent text messages to prospect 7 over the summer of 2009, it was likely because he considered him a student-athlete on his team and did not consider the messages to be impermissible at that time.

Assistant Men's Basketball Coach A's Involvement in Impermissible Texting.

The enforcement staff and institution interviewed assistant men's basketball coach A in February 2010, regarding the text message he sent to prospect 8. He acknowledged involvement in the text-message violation as well as an awareness of NCAA legislation that prohibited coaches from sending text messages to prospective student-athletes.

Assistant men's basketball coach A was named in Finding B-2-a-(2). Had the text-message violations outlined in Finding B-2-a-(2) been the only violations assistant coach A committed he would not have been named or considered at risk. However, there was agreement that, due to the number of impermissible telephone calls assistant men's basketball coach A placed to prospective student-athletes, as set forth in Finding B-2-b-(1), he was considered at risk for his involvement in Finding B-2-a-(2) and B-2-b-(1) since both violations relate to impermissible communication with prospective student-athletes.

Assistant Men's Basketball Coach B's Involvement in Impermissible Texting.

Assistant men's basketball coach B was interviewed at the same time as the head men's basketball coach and assistant men's basketball coach A. He was questioned about the text message he sent to prospect 7 as set forth in the institution's October 30, 2009, self-report to the enforcement staff. Similar to the head coach and assistant men's basketball coach A, he acknowledged involvement in the July 6, 2008, text-message violation as well as an awareness of NCAA legislation that prohibited coaches from sending text messages to prospective student-athletes. At the time of assistant men's basketball coach B's February 2010 interview, the enforcement staff and institution were not aware of the impermissible telephone calls assistant men's basketball coach B placed to prospects 7 or 9 as set forth in Finding B-2-b-(2).

Assistant men's basketball coach B was named in Finding B-2-a-(3). As with assistant men's basketball coach A, had the text message violation set forth in Finding B-2-a-(3) been the only violation assistant men's basketball coach B committed, he would not have been named or considered at risk. However, the enforcement staff, institution and assistant men's basketball coach B agree that due to the number of impermissible telephone calls he placed to prospective student-athletes, as outlined in Finding B-2-b-(2), assistant men's basketball coach B was considered at risk for his involvement in Finding B-2-a-(3) and B-2-b-(2) since both violations relate to impermissible communication with prospective student-athletes.

Information Regarding the Men's Basketball Staff's Impermissible Phone Calls.

The head men's basketball coach reported that each men's basketball coach was assigned a particular state to recruit and that each coach was responsible for coordinating the staff's recruiting efforts of prospective student-athletes from their assigned states. Therefore, in theory, the coaches would not have called any prospective student-athletes who did not reside in their assigned state unless the coach who was responsible for that state asked them to do so. As a result, each coach tracked telephone calls placed to recruits residing in his assigned state, even if another coach placed the call, and was responsible for ensuring compliance with NCAA telephone contact legislation. While each coach was individually responsible for ensuring compliance with NCAA legislation for their recruits, they only recorded calls they personally made on the telephone contact logs submitted to the compliance office. The head coach stated that assistant men's basketball coach B usually did not place recruiting calls, and that instead, he, assistant men's basketball coach A and another assistant men's basketball coach were the primary recruiters.

In reference to the calls placed to prospect 9, the men's basketball coaches typically called prospect 9's cell phone, as well as his aunt's cell phone, throughout the young man's recruitment. As seen in Finding B-2-b, assistant men's basketball coaches A and B placed a combined total of 47 impermissible telephone calls to prospect 9 and his aunt during the period May 22 through August 14, 2008.

In reference to the impermissible telephone calls placed to prospect 7, the men's basketball coaches typically contacted the prospect on his cell phone throughout his recruitment. As set forth in Finding B-2-b, the head coach and assistant men's basketball coaches A and B placed a combined total of six impermissible telephone calls to prospect 7 during the period April 6 through July 11, 2009.

**3. IMPERMISSIBLE RECRUITING CONTACTS, TELEPHONE CALLS AND TEXT MESSAGES. [NCAA Bylaws 13.1.1.3, 13.1.3.1, 13.1.3.1.1 and 13.4.1.2]**

From February through July 2008, coaches in the sports of football, women's basketball and men's tennis violated the provisions of NCAA recruiting communication legislation by placing impermissible phone calls and/or sending impermissible text messages to prospective student-athletes. Specifically:

- a. On February 1 and 2, 2008, an assistant football coach placed three impermissible phone calls to a prospective student-athlete ("prospect 10") after the one permissible call was made earlier on February 1.
- b. On July 18, 2008, the head women's basketball coach placed an impermissible phone call to the father of four-year college prospective student-athlete ("prospect 11"), even though the institution had not yet obtained written permission from prospect 10's previous institution to do so.
- c. On July 15 and 17, 2008, the head men's tennis coach placed three impermissible phone calls to a prospective student-athlete ("prospect 12") after the one permissible call was made earlier on July 15. Additionally, on July 18, the head men's tennis coach sent one impermissible text message to prospect 12.

#### **Explanation of Violation**

The enforcement staff and the institution agreed with the facts of this finding and that violations occurred. The enforcement staff and the institution agreed that in isolation, the violations would be considered secondary but were included in the major case because they are similar to Findings B-1 and B-2. The committee finds the violations occurred. These particular violations were part of a pattern of text messaging and telephone violations that, even though in isolation may be considered secondary, they must be viewed in the larger context of this case.

#### **4. FAILURE TO PROMOTE AN ATMOSPHERE OF COMPLIANCE, FAILURE TO PROTECT THE INTEGRITY OF THE INVESTIGATION UNDER THE COOPERATIVE PRINCIPLE. [NCAA Bylaws 11.1.2.1 and 32.1.4]**

From April 2008 through August 2009, the scope and nature of the violations detailed in Finding B-2 demonstrate that the head men's basketball coach failed to promote an atmosphere of compliance within the men's basketball program and failed to adequately monitor the program to ensure compliance regarding text-message and telephone communication with prospective student-athletes. There were three separate occasions when the head men's basketball coach failed to protect the integrity of the investigation. The initial instance of the head men's basketball coach failure to protect this investigation's integrity occurred in September 2009, when he discussed information pertaining to Finding B-2-b-(4) with the involved former director of men's basketball operations, even though the

institution instructed him not to speak with anyone about matters pertaining to the inquiry. The second incident also occurred in September 2009 when he spoke to prospect 9 (then a student athlete) about the calls, and the final occurrence happened in February 2010, when the head men's basketball coach notified prospect 9 that the enforcement staff planned to question him about the violations in Finding B-2-b-(4) during an upcoming interview.

### **Explanation of Violation**

The enforcement staff, the institution and the head men's basketball coach agreed with the facts of this finding and that major violations occurred. The committee finds the violations occurred.

In reference to the failure to monitor, from April 2008 through July 2009, the men's basketball program committed a total of 84 violations of NCAA recruiting communication legislation including 23 impermissible text messages and 61 impermissible telephone contacts. The head men's basketball coach alone committed approximately 19 of the 23 text-message violations, as well as one telephone contact violation. Further, during his interviews with the enforcement staff and institution, the coach acknowledged that he did not adequately monitor the men's basketball program's text-message and telephone contact with prospective student-athletes. At the time of the cooperative inquiry, the men's basketball program had failed to submit multiple telephone contact logs to the compliance staff from August 2007 through July 2009. Since August 2007, the head men's basketball coach had submitted logs for only August 2008 through July 2009. He acknowledged that he did not monitor his coaches' submission of logs to the compliance staff. Additionally, he conceded that there were times when he failed to ensure that the men's basketball coaches coordinated telephone calls to prospective student-athletes to ensure compliance with NCAA rules.

In reference to the failure to protect the integrity of the investigation, the head men's basketball coach reported that in August 2009, athletics department officials notified the men's basketball program that an audit of telephone records would be conducted. Also, he confirmed receipt of a letter dated August 1, 2009, which directed him not to speak with anyone regarding matters pertaining to the audit. The head men's basketball coach said that around September 2009, the compliance director notified him that the audit revealed that the former director of men's basketball operations had placed impermissible telephone calls to a prospective student-athlete. He said as a result, and contrary to the August 1 directive to not speak with anyone, he telephoned the former director of men's basketball operations, then an assistant men's basketball coach at a different institution, and asked whether he had called any prospective student-athletes while he was the director of men's basketball operations. The former director of men's basketball operations told the head men's basketball coach that he had not. Shortly thereafter, the

head men's basketball coach became aware that former director of men's basketball operations impermissible calls were placed to prospect 9. As a result, and also contrary to the August 1 directive, the head men's basketball coach asked prospect 9 whether the former director of men's basketball operations had called him during his recruitment. According to the head men's basketball coach, prospect 9 confirmed that he had received calls from the former director of men's basketball operations.

In February 2010, the enforcement staff requested an interview with the involved men's basketball student-athletes and coaches. The head men's basketball coach stated that the athletics department notified him that he and some of his men's basketball student-athletes would be interviewed, including prospect 9. He said that around that time, the associate athletics director and senior woman administrator, instructed him not to speak with any of the student-athletes about the topics to be discussed during the interviews. The head men's basketball coach reported that he notified prospect 9 of the request to interview him and the time he needed to be present. The head men's basketball coach said prospect 9 (who was by then a men's basketball student-athlete at the institution) became concerned and was "scared to death." The head men's basketball coach stated that he told prospect 9 he would be questioned about the impermissible calls from the former director of men's basketball operations that they had previously discussed in September 2009. When asked whether the athletics department directed him to notify the student-athletes of their interviews, the head men's basketball coach said he could not recall, but thought he told prospect 9 that he would be questioned about the calls in an attempt to allay prospect 9's concerns. The enforcement staff interviewed prospect 9, and he confirmed the head men's basketball coach's account regarding their conversations. When the enforcement staff and institution interviewed prospect 9 on February 15, 2010, he provided false and misleading information and denied taking calls from the former director of men's basketball operations. It appeared that, had the head men's basketball coach not discussed the impermissible calls with the young man, it would have been more likely that the young man would have been truthful. Instead, the head men's basketball coach discussed the calls with prospect 9, which likely tainted the young man's testimony and resulted in him jeopardizing his eligibility. Fortunately, prospect 9 later requested another opportunity to interview with the enforcement staff and corrected his earlier falsified information.

In summary, there were three separate occasions when the head men's basketball coach failed to protect the integrity of the investigation: (1) when he spoke with the former director of men's basketball operations in September 2009 about the calls, (2) when he spoke with prospect 9 in September 2009 about the calls and (3) when he notified prospect 9 in February 2010 that he would be questioned by the enforcement staff about the calls.

**5. FAILURE TO MONITOR. [NCAA Bylaw 2.8.1]**

From April 2008 through August 2009, the scope and nature of the violations detailed in Findings B-1 through B-3 demonstrate that the institution failed to monitor its sports programs to assure compliance regarding text-message and telephone communication with prospective student-athletes.

**Explanation of Violation**

The enforcement staff and the institution agreed with the facts of this finding and that major violations occurred. The committee finds the violations occurred.

During the cooperative investigation in this case, the enforcement staff identified weaknesses within the institution's telephone contact monitoring system. The institution agreed that the system was inadequate. The first weakness identified was that while the system required that coaching staff members submit monthly telephone contact logs, the compliance staff did not always follow through to ensure that logs were submitted. As a result, multiple logs from various sport programs were not on file in the compliance office. Therefore, the established compliance system was not used properly and could not have deterred or detected violations.

A second weakness within the system, prior to the implementation of the audits in October 2008, was that those telephone contact logs that were submitted to the compliance staff were not compared to available telephone bills to ensure proper recording of telephone contacts. Therefore, the established compliance system could not have detected violations unless self-reported by the recording coach.

A third weakness identified in this system was that the athletics department did not have access to all coaches' cell phone bills. Specifically, the athletics department issued and paid for a total of 14 cell phones to be used among its 13 sport programs, resulting in multiple coaching staff members being responsible for paying for their personal cell phones that were also used for recruiting purposes. The athletics department retained cell phone bills for those institutionally funded cell phones but did not request cell phone bills from coaching staff members who paid for their personal cell phones also used for recruiting purposes. Therefore, the established compliance system could not have detected any impermissible activity by those coaches who used personal cell phones.

The institution has acknowledged that this inadequate compliance system partly resulted in some of the violations in this case. As a result, the institution has established the corrective measures as described later in this report.



### **C. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] As stated in the introduction of this report, the committee decided to impose additional, non-substantive penalties, to which the institution agreed in a letter to the committee dated June 30. The committee also considered the institution's cooperation in this case. It determined that the cooperation exhibited by the institution was consistent with Bylaw 32.1.4, Cooperative Principle, which requires member institutions to cooperate in investigations, and did not warrant consideration by the committee for a possible reduction in penalties. The committee imposes the following penalties (the institution's self-imposed penalties are so noted):

1. Public reprimand and censure.
2. Two years of probation from September 23, 2010, through September 22, 2012.
3. The number of grants-in-aid for men's basketball will be reduced from 13 to 12 for the 2010-11 academic year. (Institution imposed)
4. In football, assistant football coach A was first placed on a six-month recruiting suspension, which began February 1, 2009. His suspension was changed to an indefinite suspension that began July 1, 2009. (Institution imposed)
5. In men's basketball, the entire coaching staff was prohibited from having any recruiting contacts (off-campus, recruiting, official and unofficial visits, telephone calls, e-mail, postal mail, etc.) with any recruits for a 17-week period (November 15, 2009, to March 15, 2010). The number of permissible recruiters after March 15 was reduced from three to two. (Institution imposed)
6. In reference to reporting and publicizing its infractions, the institution shall:
  - a. Inform prospective student-athletes in men's basketball and football that the institution is on probation for two years and the violations committed. If a prospective student-athlete takes an official paid visit, then information regarding violations, penalties, and terms of probation must be included with information provided in advance of the visit (five-visit rule, 48-hour rule, etc.). Otherwise, the information must be provided before a prospective student-athlete signs a NLI and no later than when the

institution provides a prospective student-athlete with the academic data report and information regarding team APR.

- b. Publicize the information annually in the football and men's basketball media guides (or Web posting), as well as in a general institution alumni publication to be chosen by the institution with the assent of the assistant director of the committee on infractions. A copy of the media guides, alumni publication, and information included in recruiting material shall be included in the compliance reports to be submitted annually to the committee on infractions.
7. During this period of probation, the institution shall:
    - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
    - b. Submit a preliminary report to the office of the Committees on Infractions by November 15, 2010, setting forth a schedule for establishing this compliance and educational program; and
    - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by June 1 of each year during the probationary period. Particular emphasis should be placed on the monitoring of coaches' telephone calls and text messages with prospective student-athletes. The institution shall include in each annual compliance report copies of any secondary violation self reports in men's basketball, together with information as to who committed the violation if such information is not provided in the self report.
    - d. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
  8. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.

9. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, the University of Tennessee, Chattanooga, shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, September 23, 2010.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations. An institution that employs an individual while a show-cause order is in effect against that individual, and fails to adhere to the penalties imposed, subjects itself to allegations and possible findings of violations.

NCAA COMMITTEE ON INFRACTIONS

John S. Black  
Melissa (Missy) Conboy  
Paul T. Dee, chair  
Roscoe C. Howard Jr.  
James O'Fallon  
Josephine Potuto

## APPENDIX ONE

### **CASE CHRONOLOGY AS SET FORTH IN THE INSTITUTION'S AND ENFORCEMENT STAFF'S MAY 20 SUMMARY DISPOSITION REPORT.**

#### **2009**

January 26 – The institution submitted a self-report to the enforcement staff regarding assistant football coach A sending impermissible text messages and placing impermissible telephone calls to prospective student-athletes in November and December 2008. The institution later submitted a request for reinstatement for those prospective student-athletes who were expected to enroll at the institution.

May 11 – The enforcement staff requested that the institution review text messages and telephone calls to prospective student-athletes by football coaching staff members between November 2004 and May 2009 to ensure compliance with NCAA Bylaws 13.1.3 and 13.4.1.2 and report those findings by June 22, 2009. The enforcement staff later agreed with the institution to limit the review to the time period of November 2006 through May 2009 due to the lack of telephone records available to the institution. Additionally, the enforcement staff granted the institution an extension to report its findings by June 29, 2009.

July 1 – The institution reported the findings of its football program audit, which included additional impermissible text-message and impermissible telephone contact violations by assistant football coach A.

July 29 – The enforcement staff began conducting on-campus interviews in a cooperative inquiry with the institution. During these interviews, the enforcement staff became aware that it was possible the institution had not been adequately monitoring text-message and telephone contact with prospective student-athletes. Therefore, the enforcement staff requested that the institution review text messages and telephone calls to prospective student-athletes in the sports of men's and women's basketball between August 1, 2007, and May 9, 2009, and report those findings by September 18, 2009. Additionally, the enforcement staff began an independent review of telephone records of former football coaching staff members who were no longer employed at the institution but were employed at other NCAA member institutions. The enforcement staff identified a few impermissible telephone contact violations by one former assistant football coach.

August 1 – At the enforcement staff's request, the institution notified the men's and women's basketball staff members that they should not speak with anyone regarding matters pertaining to the inquiry.

August 5 – The enforcement staff provided the institution a notice of inquiry letter.

August 7 – The Southern Conference provided the enforcement staff information regarding secondary violations previously reported by the institution, including text-message and telephone contact violations occurring in the men's tennis program in July 2008. The institution previously self-reported these as Level II secondary violations to the conference office January 26, 2009.

August 8 – After the institution notified its men's and women's basketball staff members that it would be conducting an audit of telephone records, the head men's basketball coach, reported to the institution that he and his staff previously sent impermissible text messages to prospective student-athletes. The institution later submitted a request for reinstatement for two enrolled men's basketball student-athletes who had received impermissible text messages and impermissible telephone calls.

October 8 – The enforcement staff approved a request by the institution to extend the due date of the men's and women's basketball audit to October 31, 2009. During this audit, the institution discovered text-message and telephone contact violations in the men's basketball program and notified the head men's basketball coach. The head men's basketball coach proceeded to discuss some of the violations with the involved former director of men's basketball operations and an involved student-athlete even though he was previously instructed to refrain from speaking with anyone regarding matters pertaining to the inquiry.

October 30 – The institution submitted its findings of the men's and women's basketball audit and identified several text-message and telephone contact violations within the men's basketball program and one telephone contact violation in the women's basketball program. Due to the additional text-message violations, the enforcement staff requested that the institution conduct an audit of its remaining sports programs to determine if additional violations pertaining to text messages occurred. The enforcement staff requested that the institution report its findings by January 15, 2010.

## **2010**

January 13 – The enforcement staff approved the institution's extension request pertaining to the text-message audit and altered the response date to February 12, 2010.

February 8 – The institution submitted its findings of the text-message audit and indicated that no additional violations were found.

February 9 – The enforcement staff provided the institution a six-month letter.

February 15-16 – The enforcement staff conducted additional on-campus interviews pertaining to the men's basketball violations and expected those to be the final on-campus interviews. Also,

the enforcement staff and institution discussed the institution's desire to use the summary disposition process.

February 19 – The enforcement staff reviewed the institution's men's basketball audit findings and telephone records and discovered multiple text-message and telephone violations the institution failed to previously identify.

March 17 – The enforcement staff conducted additional on-campus interviews pertaining to the recently discovered men's basketball violations.

March 22 – The enforcement staff began the summary disposition process and provided the institution proposed findings. The institution reviewed the proposed findings with each of the involved individuals and later notified the enforcement staff that all parties were in agreement with the findings.

May 20 – The enforcement staff, institution and involved individuals jointly submitted the summary disposition report to the NCAA Division I Committee on Infractions.

June 12 – The NCAA Division I Committee on Infractions reviewed the institution's summary disposition report.

September 23 - Infractions Report No. 330 was released.

## **APPENDIX TWO**

### **CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S MAY 19, 2010, SUMMARY DISPOSITION REPORT**

1. Assistant football coach A resigned.
2. In order to prevent similar recruiting violations, the institution has strengthened its athletics compliance program by hiring an assistant director of compliance, who will assist the director of compliance in the day-to-day operations of the compliance department. The director also audits each sports coaches' cell phone bills on a monthly, rotating basis.
3. The institution also requested a voluntary independent audit of its compliance programs from the Southern Conference. The audit was conducted in March 2009, and the institution is working to implement the suggestions that were brought forth in the audit.